

Lento Tr.

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1 PATRICK LENTO, M.D.

2 job responsibilities as an attending?

3 A. To direct the autopsy service
4 and to oversee the education of the
5 residents, specifically with regard to the
6 autopsy service.

7 Q. Would you evaluate residents who
8 would rotate through the autopsy service?

9 A. Yes, of course.

10 Q. What would be the purpose of
11 evaluations that you would prepare for
12 residents?

13 A. Monthly evaluations are standard
14 procedure for the residency program, to
15 provide an indication to the program how a
16 resident was doing and to provide
17 information to the resident how they were
18 doing.

19 Q. With regard to the rotations, is
20 there a set number of rotations that a
21 resident has to complete each year in
22 order to graduate successfully from the
23 program?

24 A. The requirement is that they
25 perform X number of months over the time

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2 period of their program, whether it's a
3 three-year or four-year program.

4 Q. Dr. Lento, with regard to when
5 you say that they would have to do X
6 number of months of rotations, would
7 residents -- if a resident was either
8 marked as marginal or below average on an
9 evaluation on a rotation, and we are
10 talking just one rotation, would that
11 prevent a graduation from the program?

12 A. Not necessarily, no.

13 Q. At what point would poor
14 performance in rotations lead to
15 ultimately preventing a resident from
16 graduating from the program?

17 A. That would depend upon the
18 circumstances of an individual resident
19 and a decision by the program director and
20 department.

21 Q. What would be the factors that
22 would be considered?

23 A. Well, we look at certain
24 competencies.

25 Q. Such as?

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2 A. Medical knowledge, patient care,
3 professionalism, as a few examples.

4 Q. So as an attending, you would
5 certainly evaluate the residents who would
6 rotate when you were the director of
7 autopsy in the autopsy service on all of
8 those different competencies; is that
9 correct?

10 A. Yes.

11 Q. For how long were you the director
12 of autopsy?

13 A. Until I left in 2011.

14 Q. Did you assume any additional
15 administrative responsibilities in
16 addition to being the director of autopsy?

17 A. Yes, I did.

18 Q. What other administrative
19 responsibilities did you assume, taking
20 them in order chronologically?

21 A. I became program director.

22 Q. When did you become the program
23 director? That would be the program
24 director of the residency program?

25 A. That's correct.

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2 Q. When did you assume that
3 responsibility?

4 A. That would be July 2010.

5 Q. Who did you succeed in the
6 position?

7 A. The prior program director was
8 James Strauchen.

9 Q. When is it that you left Mount
10 Sinai?

11 A. In 2011.

12 Q. Why is it that you left?

13 A. I got another job.

14 Q. Were you encouraged to leave by
15 someone?

16 A. No, sir.

17 Q. Where did you get another job?

18 A. At New York Medical College.

19 Q. What position did you assume?

20 A. Director of pathology education
21 at the medical school.

22 Q. Was there a residency program at
23 New York Medical College in pathology?

24 A. There is a residency at the
25 affiliated Westchester Medical Center.

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2 Q. Were you the director of that
3 program at Westchester Medical Center?

4 A. No, sir.

5 Q. What were your job responsibilities
6 as program director of the residency program?

7 A. At Mount Sinai?

8 Q. Yes.

9 A. My job was to oversee the
10 educational program for the residents.

11 Q. So what did you have to do to
12 oversee the educational program?

13 A. Responsibilities would be to
14 include the hiring of new residents,
15 schedules, organization of the educational
16 conferences, oversight of evaluation
17 process, and as needed, the day-to-day
18 operation.

19 Q. What did you do with regard to
20 scheduling?

21 A. There are certain requirements
22 that residents need to fulfill in order to
23 be able to graduate. So our job is to
24 assure that they are able to fulfill those
25 requirements.

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2 Q. What are the requirements to
3 graduate? Now we are just focusing only
4 on the pathology residency program.

5 A. Yes. So in a four-year program,
6 they are required to complete X number of
7 months. There is a minimum number of
8 autopsies that they are supposed to
9 perform. And there are recommendations
10 about potential areas of focus.

11 Q. With regard to the minimum
12 number of autopsies, during the time
13 period that the plaintiff was a resident
14 at Mount Sinai Medical Center, how many
15 autopsies were required in order to
16 complete the program?

17 A. At the time, I believe it was 40
18 or 50.

19 Q. Who would be tasked with the
20 responsibilities of keeping track of
21 whether or not the residents enrolled in
22 the program would meet that minimum
23 number?

24 A. It's the residents' job to track
25 their cases and record them with the ACGME

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2 software program.

3 Q. So that task falls directly on
4 the resident and not on any administrator
5 to keep track of that?

6 A. That's the residents'
7 responsibility.

8 Q. With regard to scheduling, you
9 had said that you would have to ensure
10 that residents would fulfill the
11 requirements in order to complete the
12 program. What would you do in order to --
13 in terms of your day-to-day
14 responsibilities, what tasks would you do
15 to fulfill that obligation?

16 A. Specifically with regard to
17 autopsies?

18 Q. Well, with regard to each one of
19 these things that the residents would have
20 to complete in order to graduate from the
21 program.

22 A. I understand. Well, at the end
23 of the year, you would assess each
24 resident's let's say rotations and compare
25 them to prior years to make sure that they

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2 are able to fulfill the requirements.

3 Q. In the rotations, would residents
4 have electives?

5 A. Possibly.

6 Q. When you say possibly, when was
7 it possible that residents would have
8 electives in terms of rotation selection?

9 A. Sometimes if they chose a
10 particular field of interest and wanted to
11 investigate that further.

12 Q. Under what circumstances could
13 there be a change in schedule where a
14 resident could change from one elective to
15 another after an elective was initially
16 selected?

17 A. Well, in general, during the
18 year that I was program director, we
19 didn't really allow changes unless there
20 were certain extenuating circumstances.

21 Q. What would be the extenuating
22 circumstances?

23 A. If there was an illness, perhaps
24 death in the family.

25 Q. Is it your testimony that there

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2 were no other circumstances beyond the
3 extenuating circumstances that you
4 identified that would have warranted a
5 change in an elective once it was
6 selected?

7 A. We would take each request as it
8 was presented. And in general, we tried
9 to maintain the schedule once it was
10 completed and distributed. So there was a
11 time period where we would allow residents
12 to potentially make requests.

13 Q. What was that time period?

14 A. In general, that was June,
15 before the start of the academic year in
16 July.

17 Q. So let's deal first with the
18 year that you were program director and in
19 the June 2011 into July 2011 time period.
20 Were there any residents who had requested
21 a change in a rotation, in other words, to
22 change out of one rotation to switch into
23 a different rotation?

24 A. I guess I would answer that
25 maybe in two parts. The first is I

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2 started in July. So at that point --

3 Q. Well, I'm talking 2011, not
4 2010.

5 A. My apologies. Thank you for
6 correcting that.

7 In 2011, I don't recall
8 specifically, no.

9 Q. Let's talk about your entire
10 tenure as program director. Excluding the
11 plaintiff, was there anyone who switched
12 rotations?

13 A. I don't recall.

14 Q. How many sick days would a
15 resident be permitted? And this is,
16 again, all these questions are during your
17 time period as program director.

18 A. I believe there is a hospital
19 policy concerning sick days. Approximately
20 I think it's eight.

21 Q. During your tenure, do you know
22 of any residents who exceeded the allotted
23 eight number of sick days?

24 A. No, I don't know off the top of
25 my head.

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2 Q. Do you know whether or not there
3 were residents who exceeded the allotted
4 number of sick days?

5 A. I do not know.

6 Q. Was there anyone who was tasked
7 with keeping track of who exceeded the
8 allotted number of sick days?

9 A. The person who typically tracked
10 sick days was the program coordinator.

11 Q. During your tenure as program
12 director, who was the program coordinator?

13 A. That was a woman named Allene
14 Carter.

15 Q. Was Ms. Carter there during the
16 entire duration of your tenure?

17 A. Yes, she was.

18 Q. As the program director, did you
19 receive training with regard to Mount
20 Sinai policies, human resources policies?

21 A. I'm sure I did at one point.

22 Q. What is the basis for that
23 answer?

24 A. I believe that it's standard
25 policy to educate all staff on policies of

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2 the staff.

3 Q. I'm talking about in your
4 particular situation, do you have a
5 specific recollection of someone from
6 human resources sitting down with you and
7 training you with regard to Mount Sinai's
8 human resources policies?

9 A. I understand. No, I do not
10 recall.

11 Q. Do you know whether or not there
12 was any in-service training with regard to
13 human resources policies when you were
14 program director?

15 A. I don't recall any in-services.

16 Q. Did you have access to Mount
17 Sinai's policies?

18 A. Yes.

19 Q. How would you be able to access
20 them?

21 A. They could be accessed via the
22 electronic version on the Mount Sinai
23 intranet service. And I guess if I had a
24 question, then it could be referred to the
25 human resources office.

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2 Q. Was there any effort by the
3 administration at Mount Sinai to track
4 whether or not you actually logged into
5 the intranet in order to review the
6 policies?

7 A. I don't know that.

8 Q. Do you recall if you ever
9 accessed the -- did you ever access the
10 intranet to review the policies?

11 A. Yes. As a resident, I remember
12 accessing policies, yes.

13 Q. How about as the program
14 director? Did you ever access the
15 intranet to access any policies?

16 A. Yes.

17 Q. Do you recall what policies you
18 logged on when you were program director
19 to access?

20 A. Policies related to the autopsy
21 service or I should say policies related
22 to hospital autopsies.

23 Q. Can you recall any other
24 policies that you recall logging on to the
25 intranet to review?

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2 A. That's all that comes to mind
3 right now.

4 Q. Do you know whether or not Mount
5 Sinai had a human resources policy with
6 regard to anti-discrimination?

7 A. I'm sure that they did.

8 Q. Well, I'm not asking for you to
9 assume. I'm asking whether or not you
10 have a specific recollection whether or
11 not Mount Sinai does or does not. And I
12 should say this was during the period when
13 you were program director.

14 A. I don't recall seeing the policy,
15 no.

16 Q. How about an anti-harassment
17 policy? Did Mount Sinai Medical Center
18 when you were program director have an
19 anti-harassment policy?

20 A. Yes, I believe they did.

21 Q. Do you recall seeing it?

22 A. I do not.

23 Q. How about an anti-retaliation
24 policy? Do you recall whether or not
25 Mount Sinai Medical Center had a specific

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2 anti-retaliation policy for reports under
3 either the harassment or the discrimination
4 policy?

5 A. I don't recall.

6 Q. Are you familiar with the
7 document called a House Staff Manual?

8 A. Yes.

9 Q. When you were program director,
10 did you have any involvement in the
11 drafting of the House Staff Manual?

12 A. No, sir.

13 Q. Who drafted the House Staff
14 Manual?

15 A. Can you clarify, please.

16 Q. I'm just talking about who wrote
17 it. Do you know who wrote it?

18 A. Can I ask you a question?

19 MR. McEVOY: No.

20 Q. If you need a clarification, you
21 certainly can. Go ahead.

22 A. I don't know who wrote it.

23 Q. Okay. When you were program
24 director, were there any revisions to the
25 House Staff Manual where you provided any

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2 input with regard to any revisions?

3 A. Again, I don't understand what
4 you are specifically referencing.

5 Q. Well, let me take a step back.

6 Are you familiar with a House Staff Manual
7 for residents?

8 A. Yes.

9 Q. So what is your understanding of
10 the House Staff Manual?

11 A. There is a hospital-based House
12 Staff Manual.

13 Q. What is the purpose of it?

14 A. To provide guidance to the
15 residents based upon their responsibilities
16 and their role.

17 Q. Do you know whether or not there
18 were any provisions within the House Staff
19 Manual with regard to professionalism?

20 A. Yes, I believe there is.

21 Q. What is expected of residents
22 with regard to standards of
23 professionalism? Again, I'm using the
24 present tense. But these questions just
25 go to your time period as the program

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2 director.

3 A. I can't enunciate specifically
4 what would have been written there, no.

5 Q. What was your understanding of
6 what you as the program director expected
7 of residents in terms of professionalism?

8 A. Yes. Professionalism would
9 entail, I guess, a number of things,
10 including your conduct or behavior,
11 attitude and commitment to your position
12 and to the hospital and to your patients.
13 That would include personal responsibilities
14 and your performance, specifically with
15 regard to striving for excellence.

16 Q. Excluding the plaintiff, do you
17 know whether or not there were any
18 residents during your tenure as program
19 director who received any form of
20 discipline for a lack of professionalism?

21 A. No, sir.

22 Q. Let's talk about discipline for
23 a moment. When you were program director,
24 what was your understanding of the
25 disciplinary procedure that was in place

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2 governing residents?

3 A. I think it has several levels.
4 There is the individualized approach to a
5 particular resident let's say where they
6 might be spoken to. And then in general,
7 there are much more formal ways of
8 approaching discipline if it were to reach
9 a certain level.

10 Q. Let's talk about the individualized
11 approach. Who would determine whether or
12 not the individualized approach would be
13 utilized or the more formal ways of approach?

14 A. It depends upon the individuals
15 involved in the circumstance or situation.

16 Q. Is the individualized approach
17 articulated in writing anywhere that you
18 are aware of for the period during which
19 you were program director?

20 A. No, I don't believe so. You
21 would speak with a resident if there were
22 a particular issue, standard practice.

23 Q. When you would speak with a
24 resident if you were taking the
25 individualized approach, would you

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2 document that step or would it remain
3 undocumented?

4 A. Personally? Not generally.

5 Q. Why is it that you would not
6 document speaking to an individual using
7 that approach?

8 A. If it were a first offense. If
9 it were a relatively minor issue. We are
10 there to train and educate the residents.
11 And there are always missteps along the
12 way. Our job is to try to guide the
13 resident appropriately. So you would not
14 document any misstep along what I just
15 described. At least I wouldn't.

16 Q. Do you recall taking the
17 individualized approach with any resident,
18 and I'm going to exclude the plaintiff
19 from this question, during your tenure as
20 program director?

21 A. Yes, I'm sure that I did.

22 Q. Do you recall any specific
23 circumstances where you used the
24 individualized approach that you just
25 described?

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2 A. I spoke with Dr. McCash after
3 his altercation with Dr. Varughese.

4 Q. Anyone else?

5 A. You are asking me to recall
6 specific instances?

7 Q. Yes.

8 A. At the current moment, I don't
9 have an example.

10 Q. Besides Dr. McCash?

11 A. At the current moment.

12 Q. Going to the more formal way of
13 approaching it, what was your
14 understanding as program director as to
15 the procedures?

16 A. If there was an issue that went
17 beyond our ability to reconcile with the
18 resident in the circumstances that we just
19 discussed? Is that correct?

20 Q. Well, I'm just asking -- you had
21 delineated that there were two different
22 approaches to discipline. One was the
23 individualized approach and one was the
24 more formal way of approach. I'm asking
25 about the more formal way of approach.

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2 What was your understanding as program
3 direct of the formal way that you would
4 approach discipline?

5 A. Thank you. A resident could be
6 placed under academic advisement. And I
7 believe a resident could be formally
8 disciplined, which was different than an
9 academic advisement. And potentially a
10 resident could be dismissed.

11 Q. Now, you draw a distinction
12 between academic advisement and formal
13 discipline. With regard to formal
14 discipline, what were the steps of formal
15 discipline when you were program director?

16 A. A resident would receive a
17 formal warning, generally in written
18 format.

19 Q. Would there be any steps, in
20 other words, an initial written warning, a
21 second written warning? Or does it skip
22 straight to suspension or probation or
23 would it skip to termination? Were there
24 any steps?

25 A. I don't believe that there was a

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2 requirement with regard specifically to
3 going through individualized steps.

4 Q. But do you know whether or not
5 individual steps were available?

6 A. Well, yes. As I outlined, the
7 first would be to try to do something
8 informal. And if you were to reach the
9 point where you decided to move into a
10 more formal situation, in my mind, it
11 would require a referral to the graduate
12 medical education office and consultation
13 from them before proceeding.

14 Q. Right. But then after you would
15 initiate formal discipline, what would be
16 the steps that would be available after
17 the initiation of formal discipline?

18 A. Well, I had never formally
19 disciplined a resident beforehand. So I
20 don't know that I can answer a question
21 about specific steps.

22 Q. So you are making reference to
23 the plaintiff, right, when you say
24 "beforehand"?

25 A. No, sir.

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2 Q. What do you mean by beforehand?

3 A. Academic advisement is not a
4 formal form of discipline. A discipline,
5 in my mind, would be a resident who would
6 be put on notice for potential probation.

7 Q. So let's talk about academic
8 advisement for a moment. In your mind,
9 academic advisement was not a form of
10 discipline?

11 A. I didn't consider it discipline,
12 no.

13 Q. Could a resident be expelled
14 from the program if they did not comply
15 with academic advisement?

16 A. Possibly, yes.

17 Q. So if academic advisement could,
18 if there was noncompliance, result in
19 termination from the program, why was it
20 not considered discipline in your mind as
21 the program director?

22 A. I saw it more as an educational
23 experience for the resident.

24 Q. But an educational experience
25 that could result in termination and end

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2 of the resident's career, correct?

3 A. Possibly.

4 Q. So back to my question. Why
5 didn't you consider that to be
6 disciplinary, then, if it could result in
7 such drastic outcome if there was
8 noncompliance?

9 MR. McEVOY: Objection. Asked
10 and answered. You can answer it one more
11 time.

12 A. Again, I considered it to be a
13 form of education. What I anticipated
14 would be if a resident did not completely
15 satisfy the criteria of the academic
16 advancement, that that could then lead to
17 more formal disciplinary action, and that
18 that could lead to termination.

19 Q. In all of the time that you were
20 at Mount Sinai Medical Center, whether it
21 be as a resident, as a fellow, as an
22 attending or ultimately, and I understand
23 you were still an attending when you were
24 the program director, but upon your
25 assumption of administrative

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2 responsibilities, do you know of anyone
3 besides the plaintiff who was ever placed
4 on academic advisement?

5 A. I'm not aware, no. I wouldn't
6 have access to that information anyway.

7 Q. Well, I'm just asking whether
8 you have personal knowledge of anyone.

9 A. I understand.

10 MR. WRONKO: Off the record.

11 (Discussion off the record.)

12 Q. We were talking about academic
13 advisement before we left the record for a
14 moment. Do you know whether or not there
15 was any right of appeal from academic
16 advisement?

17 A. I think a resident could challenge
18 it.

19 Q. How so?

20 A. Verbally.

21 Q. Were there any formal appeal
22 rights to an academic advisement?

23 A. I'm not aware off the top of my
24 head.

25 Q. Could academic advisement be

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2 utilized as the first step in a disciplinary
3 program? Strike that.

4 Was academic advisement utilized
5 as the first step in a disciplinary
6 program at Mount Sinai when you were
7 program director?

8 A. I'm not aware of academic
9 advisement as being a step in any process
10 of discipline.

11 Q. When you were program director,
12 were you aware of any problems in the
13 gross room involving residents?

14 MR. McEVOY: Objection to the
15 form. You can answer.

16 A. Can you clarify problems.

17 Q. Sure. How about residents
18 pushing work off on other residents?

19 A. Specific individuals?

20 Q. Do you recall there being issues
21 with regard to the gross room where
22 residents would push work off on other
23 residents?

24 A. The only specific instance I'm
25 aware of is when Dr. Varughese had another

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2 resident perform the examination of
3 specimens related to her incident in
4 December 2010.

5 Q. As the program director, you
6 were not aware of residents who would
7 leave early from grossing?

8 A. No, sir.

9 Q. Were you aware of residents who
10 would leave samples from one day to the
11 next?

12 A. Not specific instances, no.

13 Q. Even if you weren't aware of
14 specific instances, were you aware that
15 that conduct was going on in the gross
16 room?

17 MR. McEVOY: Objection to the
18 form. You can answer.

19 A. That may have happened, yes.

20 Q. Were you aware of whether
21 residents and gross room staff were at
22 each other's throats at any point during
23 the time that you were program director?

24 MR. McEVOY: Objection to the
25 form. You can answer.

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2 A. That's an unusual way of
3 phrasing something.

4 Q. Sure. Are you aware of anything
5 like that?

6 A. No, sir.

7 Q. In August of 2010, were you the
8 program director at that point?

9 A. Yes, I was. Although I had
10 already accepted my new position.

11 MR. McEVOY: We are talking
12 about August 2010.

13 THE WITNESS: My apologies.

14 A. August 2010. Yes, I was the
15 program director. As I stated earlier, I
16 started in July 2010.

17 Q. Are you familiar with an
18 individual by the name of Roma Rosario?

19 A. Yes, sir.

20 Q. Who was Roma?

21 A. A physician's assistant.

22 Q. Did Roma work in the gross room?

23 A. Yes, she did.

24 Q. Were there any issues with
25 Roma's work performance in the gross room?

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2 A. Not that I was aware of.

3 Q. Did you expect your chief
4 residents to keep you up to speed with
5 regard to performance issues with regard
6 to physicians assistants?

7 A. I didn't oversee the physicians
8 assistants, so no.

9 Q. Did you expect your chief
10 residents to keep you apprised of whether
11 there were performance issues?

12 MR. McEVOY: The witness just
13 said no.

14 MR. WRONKO: I think he
15 misunderstood my question.

16 Q. Do you understand my question
17 now?

18 A. My expectation was that the
19 chief residents would report to me about
20 problems with regard to the residents.

21 Q. Who would supervise the physician
22 assistants?

23 A. There was an attending in the
24 department who oversaw the physician
25 assistants.

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Q. In August of 2010, who was that?

A. I believe that was Dr. Nagi.

4 Q. Were you aware in August of
5 2010 -- did you know a resident at that
6 point whose first name was Jessica?
7 Jessica French?

A. I did know Jessica French.

9 Q. Did you know whether Jessica
10 French left early without properly
11 communicating with the gross staff and
12 wound up leaving a number of specimens for
13 other people to gross?

14 A. No, sir.

15 Q. Let me show you what was marked
16 as Pessin 1.

17 (Witness reviews document.)

18 Q. Do you recall ever seeing this
19 email chain prior to today?

20 A. I do not.

21 Q. Just turning to the second page,
22 Adrienne Jordan wrote an email, dated
23 August 13, 2010, at 9:18 p.m. Was
24 Adrienne Jordan at that point a PGY-2?

25 A. I believe she was.

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2 Q. Did you know Adrienne Jordan in
3 August 2010?

4 A. She was a resident in our program.
5 So yes.

6 Q. What interaction had you had
7 with Adrienne Jordan leading up to August
8 2010?

9 A. She was a resident in the
10 program. So my interactions would have
11 been related to the program, the education
12 of the residents' rotations through our
13 service.

14 Q. What was your perception of her
15 as a resident?

16 A. I thought she was an intelligent,
17 focused, disciplined resident.

18 Q. How is it that Adrienne Jordan
19 became the head of moonlighting in the
20 2010 year?

21 A. Can you say the question.

22 Q. How is it that Adrienne Jordan
23 became the head of moonlighting as a
24 PGY-2?

25 MR. McEVOY: I object to the

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2 form of the question. It presumes that
3 she did.

4 Q. Did Adrienne Jordan become the
5 head of moonlighting in her PGY-2 year?

6 A. Adrienne did organize the
7 moonlighting service in conjunction with
8 myself, the chief residents, the chairman
9 of the department.

10 Q. But how did it come about that
11 she was playing that role as a PGY-2?

12 A. I don't recall specifically.
13 She may have volunteered.

14 MR. McEVOY: Don't guess.

15 Q. Going back to your email, which
16 is on the second page, August 13, 2010,
17 which was her email, she writes, "Yes, I
18 do love work, but I also like sleep and
19 getting home in time to puke my guts out
20 so I can go to bed and get up tomorrow and
21 do it over again."

22 Do you consider that type of
23 email professional?

24 A. I think it was a joke.

25 Q. She goes on to write "I am going

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2 to try and cut through the BS. That's
3 just me complaining and giving you guys
4 the serious infractions that led to
5 today's events."

6 Was Adrienne Jordan a complainer?

7 A. I didn't find her to be a
8 complainer, no.

9 Q. Were you ever made aware of what
10 she perceived to be serious infractions
11 that she outlines in this email?

12 A. I do not recall this, no.

13 Q. I would assume you read what she
14 wrote about Jessica French. Did you
15 believe that Jessica French had acted
16 inappropriately in the way that she had
17 communicated with regard to her grossing
18 shift?

19 A. I wasn't there. So this is
20 based simply on the information that
21 Adrienne is providing. It does sound like
22 she spoke with several people on the team
23 at the location at the time. One person
24 was left out.

25 Q. Who was left out?

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A. One of the other residents.

3 Q. Do you know whether or not
4 Jessica French was ever disciplined,
5 whether it be informally or formally, with
6 regard to this situation?

7 A. I do not believe that she was
8 disciplined by me. No.

9 Q. Dr. Jordan goes on to write
10 about Roma and that Roma was not dictating
11 as she was moving along with her
12 responsibilities. Had you ever been
13 notified about that problem with Roma?

14 A. Can you repeat the question.

15 (The question was read.)

16 A. I don't recall being
17 specifically notified about that problem.

18 Q. How about any other problem with
19 Roma? Were there any problems with Roma
20 from a job performance standpoint or a
21 professionalism standpoint?

22 A. There were issues, I believe,
23 with all of the individuals in the gross
24 room.

25 0. Such as?

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2 A. At different times. You are
3 dealing with humans who are working
4 closely together on a daily basis under
5 high-stress situations. And so on
6 occasion there might be an argument
7 perhaps. But, again, I did not oversee
8 the physician assistants specifically.

9 Q. Excluding anything that might
10 have involved the plaintiff in this
11 situation, were you aware of anyone who
12 had complaints with Roma?

13 A. I don't recall a specific
14 complaint, no.

15 Q. You indicated that it's a
16 high-stress environment. What makes it a
17 high-stress environment?

18 A. We are dealing with patients,
19 patient samples. This is patient care on
20 a very busy service. We want to provide
21 the best possible care that we can.
22 Again, striving for excellence in our
23 performance.

24 Q. How frequently would there be
25 arguments in the gross room?

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2 A. I have no idea. That was not my
3 service.

4 Q. Do you know whether or not it
5 was commonplace for there to be arguments?

6 A. I'm not aware of it being
7 commonplace, no.

8 Q. But would it happen on occasion?

9 A. I'm sure that it did.

10 Q. Do you have any knowledge as to
11 what people would argue about in the gross
12 room?

13 A. It could vary. I imagine --

14 MR. McEVOY: Don't guess.

15 Q. I've given you that instruction.
16 Now you have had it three times. I expect
17 it won't be given again.

18 MR. McEVOY: I will give that
19 instruction every he tries to guess.

20 MR. WRONKO: You are feeding the
21 witness. If you are going to do that, we
22 will get the magistrate on the phone.
23 That was a specific and tactical
24 instruction you have given. If the
25 instruction is given again, we are getting

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1 PATRICK LENTO, M.D.

2 the magistrate on the phone. He knows not
3 to guess.

4 Q. Do you understand not to guess?

5 MR. McEVOY: Stop shouting.

6 A. My apologies.

7 MR. McEVOY: Stop shouting.

8 Q. You can proceed. Do you need
9 the question read back?

10 A. Yes, please.

11 (The pending question was read.)

12 A. I can't give you a specific
13 situation.

14 Q. Sure you can.

15 Let me ask you a question. With
16 regard to the frozen and gross room
17 fridges, do you know whether or not there
18 were situations where there were misplaced
19 specimens?

20 A. I don't recall an incident
21 specifically.

22 Q. I'm not asking for you to
23 identify a specific incident. But were
24 there situations where there were
25 specimens from flow cytometry being

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2 misplaced in the frozen gross room
3 fridges?

4 A. The only thing that comes to
5 mind is an incident involving Dr. Varughese.

6 Q. What was that incident?

7 A. To the best of my recollection,
8 it was an incident in September 2010. I
9 believe Dr. Varughese was on call for the
10 frozen room. And there was an oncology
11 specimen that she was involved with.

12 Q. Is that the extent of your
13 knowledge?

14 A. I'm not aware of a specimen
15 being misplaced. I know that there were
16 issues about the specimen.

17 Q. What were the issues about the
18 specimen?

19 A. My understanding was that the
20 specimen may not have been appropriately
21 handled.

22 Q. Who advised you of that?

23 A. Dr. Pessin.

24 Q. Did Dr. Pessin advise you as to
25 what her basis of knowledge was for that

1 PATRICK LENTO, M.D.

2 statement?

3 A. She had received a complaint
4 from a clinician related specifically to
5 that specimen.

6 Q. Who was the clinician?

7 A. I have no idea.

8 Q. Do you know whether or not that
9 complaint was ever verified?

10 A. I did investigate.

11 Q. What did you do to investigate?

12 A. I met with and spoke to
13 Dr. Varughese. And I met with and spoke
14 to one of the attendings that she had
15 spoken with or dealt with that prior night
16 while on call.

17 Q. Who was the attending?

18 A. Dr. Morotti.

19 Q. Tell me what Dr. Varughese told
20 you.

21 A. She said it was a situation that
22 her attending that she was paired with
23 didn't necessarily appreciate how best to
24 handle. I believe she was asked to speak
25 with another attending.

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Q. What did Dr. Morotti tell you?

3 A. Dr. Morotti told me that Leena
4 had spoken with her about the specimen.

5 And it was my conclusion that although the
6 specimen hadn't been ideally handled, that
7 whatever the problem was was not solely
8 the responsibility of Dr. Varughese.

9 Q. Let me show you what was marked
10 as Pessin 2 at a prior deposition. I'll
11 give you a moment to review that.

12 | (Witness reviews document.)

13 | Q. Who was Kruti Maniar?

14 A. Kruti was one of the chief
15 residents during the academic year that
16 this email was sent. She worked with the
17 second chief resident.

18 Q. Did this chief resident ever
19 advise you of the fact that there were
20 specimens for flow cytometry being
21 misplaced in the frozen gross room
22 fridges?

23 A. I don't recall Dr. Maniar
24 specifically telling me that.

Q. Did she advise you that there

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2 was a specimen that became too old to be
3 used for flow because it had been
4 misplaced?

5 A. I don't recall being notified of
6 that.

7 Q. Would that be a concern for
8 patient care?

9 A. Of course.

10 Q. Why?

11 A. The patient specimens are in a
12 sense patients. And our objective is to
13 provide diagnoses based on those specimens
14 so that the patients can be cared for
15 appropriately.

16 Q. Do you know whether or not
17 residents in the gross room would store
18 specimens under grossing stations?

19 A. Yes, sir. They would.

20 Q. Under what circumstances would
21 they store specimens under grossing
22 stations?

23 A. I believe two circumstances
24 would be a specimen that has already been
25 examined that might need to be further

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2 examined after the fact. Can I correct
3 myself, please?

4 Q. Sure.

5 A. Three that really come to mind.
6 One is a specimen that has been examined
7 that might need to be examined again. A
8 specimen that is being fixed so that the
9 examination can occur much more
10 appropriately at a later time. And a
11 third is perhaps a specimen that might
12 have some teaching value that would be
13 used to educate others.

14 Q. When you say "fixed," are you
15 referring to leaving a specimen in
16 formalin?

17 A. Yes, sir.

18 Q. Would a breast sample typically,
19 if it had significant fatty tissue, be
20 left in formalin to be fixed?

21 A. It might be, yes.

22 Q. Was it typical to leave that
23 type of a specimen in formalin overnight
24 for it to be fixed?

25 A. It would depend on the

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2 circumstances of the specimen.

3 Q. Such as?

4 A. As one example, if you had a
5 mastectomy for a breast tumor mass, then
6 in general, no, you would not fix it and
7 wait, because the tumor, it would
8 generally be obvious at the time of
9 examination. Again, that's an example.

10 Q. But if the tumor were not
11 obvious at the time of examination, then
12 it would be appropriate to fix it overnight
13 in formalin?

14 A. In general, the sample would
15 still be sampled at the time of
16 examination. And if there were specific
17 reasons to hold something over, then one
18 might. But that would be based generally
19 on the direction of the specific
20 attendings who oversaw what I'll call the
21 breast service.

22 Q. Not being a pathologist, what
23 does fixing something in formalin do to a
24 specimen? What is the purpose of fixing
25 it in formal?

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2 A. It crosslinks the tissue. It
3 makes it harder. And it allows for
4 processing so that the slides can be made
5 for examination on the microscope.

6 Q. What does it mean to gross a
7 breast margin?

8 A. A margin is on a patient sample
9 in a sense where a surgeon has made a cut.
10 So in order to remove a piece of tissue,
11 wherever the surgeon's scalpel had gone
12 would be considered a margin.

13 Q. Would grossing a breast margin
14 be considered complex work or would that
15 be considered simple work in the world of
16 grossing?

17 A. In general, relatively simple.

18 Q. For a PGY-3, is there much
19 educational value in terms of grossing
20 breast margins?

21 A. Yes, I believe there is. Of
22 course. I think there is educational
23 value in essentially everything that we do
24 with regard to grossing.

25 Q. But aren't there gradients of

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2 educational value? At some point when you
3 have someone who is more experienced in
4 grossing, is there less educational value
5 in terms of grossing breast margins?

6 A. One could make that argument.
7 But again, I would say that it might
8 depend on the individual you are asking
9 that question of.

10 Q. Fair enough. Now, during the
11 time that you were the program director,
12 were moonlighters allowed to gross breast
13 margins?

14 A. I don't know offhand.

15 Q. Who would know?

16 A. I guess I would say the director
17 of the breast service.

18 Q. Who was that at the time?

19 A. Dr. Bleiweiss.

20 Q. When did you first have interaction
21 with Dr. Varughese?

22 A. Her first month of residency.

23 Q. Was she in a rotation of yours?

24 A. Yes.

25 Q. What rotation was it?

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2 A. It was the autopsy service.

3 Q. How long was that service?

4 A. One month.

5 Q. Do you recall how she had
6 performed in that service?

7 A. I think that she performed
8 satisfactorily.

9 Q. After that autopsy service was
10 completed, when was your next interaction
11 with Dr. Varughese? I should say substantial
12 interaction.

13 A. I would imagine it would be on
14 my service at another time.

15 Q. Do you know whether or not she
16 came through your service again during her
17 first year of residency?

18 A. I'm sure she would have, yes.

19 Q. How many times would she have
20 come through your service during her first
21 year of residency?

22 A. That I don't know.

23 Q. Would it have been more than
24 twice?

25 A. It may have been.

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2 Q. During the first year of her
3 residency, did you come away with any
4 impressions about Dr. Varughese?

5 A. Yes.

6 MR. McEVOY: Objection.

7 Impressions about what?

8 Q. Impressions about her
9 performance, her job performance as a
10 resident.

11 MR. McEVOY: Fair enough.

12 THE WITNESS: Thank you.

13 A. From what I recall, I remember
14 July of her first year of residency, Leena
15 was obviously very intelligent. I thought
16 that she was pleasant to work with. And I
17 remember she often had a smile on her
18 face.

19 Q. How about the second year of her
20 residency? Did you have any interaction
21 with her?

22 A. I may have.

23 Q. Sitting here today, do you have
24 any recollection of any interaction with
25 her during the second year of her

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2 residency?

3 A. I do not recall.

4 Q. Regardless of any interactions,
5 do you recall any change in your
6 perceptions of Dr. Varughese's work
7 performance by the end of her second year
8 of residency?

9 A. From what I recall, Dr. Varughese
10 had some trouble following up on her cases
11 on the autopsy service.

12 Q. Anything else?

13 A. That's all.

14 Q. Did any other residents have any
15 problem similar to that in terms of
16 following up on cases on autopsy?

17 A. Yes, there were. I can't give
18 you a specific name. Not because I won't
19 do it, but because I don't recall.

20 Q. Were Dr. Varughese's issues with
21 regard to following up on cases on autopsy
22 any more severe than any of her fellow
23 residents or were they less severe or were
24 they the same?

25 A. That I don't recall.

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2 Q. Do you have any recollection of
3 giving her below satisfactory on any
4 evaluations that you prepared for her
5 during her second year?

6 A. I believe I may have, yes.

7 Q. But do you believe that any of
8 the issues that she had on the autopsy
9 service were serious enough to threaten
10 her continuation in the program?

11 A. Perhaps if persistent, yes.

12 Q. Were those issues on the autopsy
13 service persistent? Did they ever reach
14 the point of being persistent?

15 A. I believe even in her third
16 year, I was still trying to catch up on
17 autopsy with her.

18 Q. Dealing only with the PGY-2s in
19 Dr. Varughese's class, were there any
20 other residents who you had to catch up on
21 autopsy with?

22 A. I'm sure there were.

23 Q. Do you know whether or not Paul
24 Azar was someone you had to catch up on
25 autopsies with?

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2 A. That I don't recall.

3 Q. Do you know whether or not there
4 was anything in your interactions with
5 Dr. Varughese in her first or second year
6 that would lead you to conclude that she
7 needed to see a psychiatrist?

8 A. Referring back to my prior
9 comment about her demeanor in July of her
10 first year residency, I noticed a change
11 in her demeanor. I don't know that that
12 necessarily required referral to a
13 psychiatrist.

14 Q. When did you notice a change in
15 her demeanor?

16 A. It was probably a couple of
17 months into first year.

18 Q. What was the change that you
19 noticed?

20 A. She never seemed to smile anymore.

21 Q. Didn't you just testify that by
22 the end of the first year, you had noted
23 that she often had a smile on her face?

24 A. No. That was specifically
25 during her first rotation.

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2 Q. So was that at all disturbing to
3 you that she wasn't smiling?

4 A. Of course it would be upsetting.

5 Q. Did all of the other residents
6 always smile in your presence?

7 A. That seems an odd question.
8 Maybe I didn't phrase appropriately my
9 description of her not smiling. She
10 seemed distracted. When I would address
11 her to say "Hello, Leena," she would not
12 respond, which I thought was odd.

13 Q. Let's talk about the residency
14 program for a moment for pathologists.
15 How many hours a week would pathologists
16 be expected to work?

17 A. Probably somewhere between 40
18 and 60 hours.

19 Q. Was it a stressful residency for
20 residents to have to go through?

21 A. Yes. I believe any residency is
22 stressful.

23 Q. Why is it, as someone who has
24 never, fortunately, gone through a
25 residency, why would it be considered

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2 stressful for somebody to go through a
3 pathology residency?

4 A. Well, I think first you have
5 your own personal stress as an individual
6 who is perhaps striving for excellence.
7 You also have the stresses of the
8 environment that you are in. Again, you
9 are dealing with patients. And that's a
10 very high-stress situation. Whether you
11 are a pathologist or you are a surgeon,
12 you are directly dealing with patients and
13 their samples. And patient samples are
14 not any different than having a patient in
15 front of you, as far as I'm concerned.

16 Q. What about workload for a
17 pathology resident? Was there a substantial
18 workload?

19 MR. McEVOY: Objection to the
20 form. You can answer.

21 A. We had a busy service. Yes.
22 That was a good thing.

23 Q. How about the information that
24 pathologists were required to retain in
25 order to perform their job duties? There

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2 were a number of different specimens that
3 they would have to analyze?

4 A. Yes, sir.

5 Q. Do you believe it's fair to say
6 that there were a number of stresses that
7 would arise out of the amount of information
8 that would have to be retained?

9 A. Yes, sir.

10 Q. Did there ever come a point
11 where you became aware that Dr. Varughese
12 had written a negative evaluation with
13 regard to either the program or about a
14 rotation that she had gone through?

15 A. Yes.

16 Q. When did you first become aware
17 that she had written a negative
18 evaluation?

19 A. I don't recall the date.

20 Q. What do you recall of the
21 evaluation?

22 A. I don't recall the evaluation
23 itself.

24 Q. How did you become aware of the
25 fact that she had written a negative

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2 evaluation?

3 A. Our program coordinator had
4 indicated to me.

5 Q. Who was the program coordinator?

6 A. That was the program coordinator
7 we referred to earlier, Allene Carter.

8 Q. Was she a doctor?

9 A. No, she was not.

10 Q. Did Ms. Carter -- when was it
11 that Ms. Carter -- you don't recall when
12 Ms. Carter brought that to your attention?

13 A. No, I do not.

14 Q. Was it close in time to when the
15 evaluation was written by Dr. Varughese?

16 A. That I don't recall.

17 Q. And did Ms. Carter show you a
18 copy of the evaluation?

19 A. I don't recall seeing a copy.

20 MR. WRONKO: Let's mark this.

21 (Plaintiff's Lento Exhibit 1
22 marked for identification.)

23 Q. I've shown you what has been
24 marked as Lento Exhibit 1. Do you have
25 any recollection of having seen what

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2 appears at the bottom of the first page,
3 carrying over to the second page?

4 MR. McEVOY: Are you referring
5 to the evaluation?

6 MR. WRONKO: Correct.

7 Q. To the evaluation that appears
8 on that document?

9 A. I don't recall.

10 Q. Did you discuss with
11 Dr. Varughese the issue of her preparing a
12 negative evaluation of a rotation after
13 Ms. Carter brought it to your attention?

14 A. Yes.

15 Q. When did you discuss it with
16 her?

17 A. I don't recall the date.

18 Q. This particular evaluation was
19 for the period of August 2, 2010, to
20 August 29, 2010. Does that refresh your
21 recollection as to the general time period
22 as to when you had a conversation with her
23 about her evaluation?

24 A. Obviously it would have had to
25 have been after the evaluation was

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2 completed.

3 Q. How long after the evaluation
4 was completed?

5 A. I'm going to assume that it was
6 within the six-month period of the
7 evaluation.

8 Q. Why is it that Ms. Carter
9 brought it to your attention? Do you have
10 any knowledge as to why she brought it to
11 your attention?

12 A. No. I think you would have to
13 ask Ms. Carter a question about that.

14 Q. Okay. Were these evaluations
15 supposed to be anonymous?

16 A. It is my understanding that yes,
17 they should have been anonymous.

18 Q. So why in this particular
19 instance was the anonymity not preserved?

20 A. It wasn't in this particular
21 instance.

22 Q. Right. But do you know why it
23 wasn't preserved in this instance?

24 A. I do not know why. This program
25 was in place before I took over as program

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2 director. I didn't set up the program. I
3 didn't even know that they were not
4 anonymous.

5 Q. Were you upset with Dr. Varughese
6 for having written a negative evaluation?

7 A. No, I wasn't upset with her. I
8 asked her if she had given a negative
9 evaluation and was curious to know why, so
10 that we could try to work on improving
11 things.

12 Q. What is a diatribe?

13 A. How do I define diatribe?

14 Q. Yes.

15 A. I guess it depends on the
16 context. A diatribe is somebody who
17 expounds on a circumstance perhaps more
18 than might be necessary.

19 Q. Did you use that term in
20 discussing the evaluation with
21 Dr. Varughese in terms of asking her why
22 she wrote a diatribe of an evaluation?

23 A. I don't recall saying that
24 specifically, no.

25 Q. Had you ever followed up with

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2 any other resident about an evaluation
3 that they had written about a rotation?

4 A. I don't recall, no.

5 Q. Do you recall there being a
6 situation where Dr. Varughese had reported
7 in September 2010 that she was berated and
8 yelled at by Dr. McCash?

9 A. I do remember the incident, yes.

10 Q. What do you recall?

11 A. I was informed by Kruti Maniar,
12 who was the female chief resident at the
13 time, that there had been a problem with
14 Leena. She, I believe, emailed me
15 specifically about an incident and asked
16 if she could meet with me and discuss it.

17 Q. When you say that Dr. Maniar
18 said that there was a problem with Leena,
19 was it that Leena had a problem or was
20 there a problem with her? Do you understand
21 the distinction?

22 A. Yes. I'm thinking.

23 Q. Sure.

24 A. I believe the problem was related
25 to Dr. Varughese.

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2 Q. What did Dr. Maniar specifically
3 tell you?

4 A. Leena had been asked in advance
5 to help cover for another resident. And
6 she refused to do so.

7 Q. Help cover what?

8 A. A service.

9 Q. Do you know whether every,
10 excluding Dr. Varughese, every time a
11 resident was asked to help cover another
12 resident on a service whether there was
13 100 percent compliance with requests?

14 A. I didn't make those requests.
15 So I wouldn't know.

16 Q. The chief residents would know,
17 correct?

18 A. In general, yes.

19 Q. So did you receive an email from
20 Dr. Varughese about the incident?

21 A. If I recall correctly, maybe
22 that night.

23 Q. So you were made aware of a
24 situation by Dr. Maniar before you got an
25 email from Dr. Varughese?

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2 A. Yes.

3 Q. Did Dr. Maniar report to you any
4 interaction between Dr. Varughese and
5 Dr. McCash prior to you receiving an email
6 from Dr. Varughese?

7 A. Yes.

8 Q. So what did Dr. Maniar tell you
9 about the interaction between Dr. Varughese
10 and Dr. McCash?

11 A. Dr. Maniar emailed me about what
12 had happened and asked if we could meet.
13 And I said yes. So we met maybe late
14 morning to discuss what happened.

15 Q. Do you recall anything about
16 Dr. Maniar's email?

17 A. All I recall is that she said
18 that there was an issue and that she
19 wanted to meet to discuss it.

20 MR. WRONKO: There has been a
21 lot of paper in this case. I don't know
22 whether that email has been produced. I
23 don't recall seeing it. If it has been
24 produced, I would just ask for a Bates
25 reference. If it has not, I would just

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2 ask that it be produced.

3 MR. McEVOY: As I've said
4 before, put whatever requests you have in
5 writing.

6 MR. WRONKO: Sure.

7 Q. With regard to the late morning
8 meeting, who was present for that?

9 A. Just myself and Dr. Maniar.

10 Q. Tell me what was said.

11 A. I can't tell you verbatim.

12 Q. Okay. Give me an approximation
13 of what was said.

14 A. Kruti indicated that Dr. Varughese
15 had been asked to cover for another
16 resident a couple of weeks down the road
17 from the time, and she had refused.

18 Q. What did she say, if anything,
19 about the interaction between Dr. Varughese
20 and Dr. McCash?

21 A. At that time, I don't believe
22 she said anything.

23 Q. What do you recall of the email
24 from Dr. Varughese?

25 A. I believe Leena said that Sam

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2 had been inappropriate. I think she also
3 asked to meet with me.

4 Q. Did you respond to her request?

5 A. Yes.

6 Q. How soon after she initially
7 emailed did you respond to her?

8 A. I don't recall if I spoke with
9 her or if I emailed her. My recollection
10 is that the email came late. And I ended
11 up meeting with Dr. Varughese I believe it
12 was the following day.

13 Q. Let me show you what was
14 previously marked as Defendant's Exhibit
15 5. I'll give you a moment to review that.
16 My question is whether or not this was the
17 email that you were referring to from
18 Dr. Varughese on September 14, 2010, at
19 10:34 p.m.

20 (Witness reviews document.)

21 A. I don't know if this was the
22 specific email she had sent to me.
23 Obviously, my name is on it. I don't know
24 if this is the specific one that you are
25 referring to.

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2 Q. Do you recall any other emails
3 that differed in content that Dr. Varughese
4 had sent regarding this incident at the
5 very -- immediately after -- not
6 immediately after but in terms of her
7 first communication after the incident had
8 occurred?

9 A. No. She obviously iterates in
10 this email her concern.

11 Q. Did this email raise any
12 concerns in your mind about the violation
13 of any policies that Mount Sinai had on
14 the books with regard to resident conduct?

15 A. Any time anything is raised by a
16 resident of this nature or any other
17 serious nature, certainly would be a
18 concern, yes. And that's why I asked to
19 meet with Dr. Varughese.

20 Q. What specific policies do you
21 believe that the allegations that
22 Dr. Varughese made in the September 14,
23 2010, email were implicated?

24 MR. McEVOY: Objection. You can
25 answer.

1 PATRICK LENTO, M.D.

2 A. Well, it would be more of a
3 professionalism or conduct issue.

4 Q. Is there ever a situation where
5 it would be acceptable for a chief
6 resident to speak to another resident to
7 say "Shut up, shut up, shut up, Leena.
8 Shut your mouth"?

9 A. No.

10 Q. Had you received any prior
11 notification about any situation between
12 Dr. Varughese and the PA Rob?

13 A. My recollection is that they had
14 an altercation.

15 Q. When did you first become aware
16 of that altercation?

17 A. I do not know.

18 Q. Did you become aware at the time
19 that the altercation took place or was it
20 sometime thereafter?

21 A. What I've told you is really all
22 that I recall.

23 Q. Okay. Did you have any
24 communications with Dr. Pessin-Minsley
25 with regard to this complaint that

1 PATRICK LENTO, M.D.

2 Dr. Varughese had raised?

3 A. Yes.

4 Q. What was your first communication
5 with Dr. Pessin-Minsley with regard to
6 this situation?

7 A. So my recollection is that I met
8 with Leena the following day. I had
9 already met with Dr. Maniar on the day in
10 question. The following day, I met with
11 Dr. Varughese and Dr. Maniar together to
12 discuss the situation. There was an
13 additional issue that was raised related
14 to the cytology specimen we discussed
15 earlier.

16 Q. Let's just focus for a moment on
17 that meeting with Dr. Varughese and
18 Dr. Maniar. Can you tell me what
19 Dr. Varughese said at the meeting?

20 A. She said that Sam yelled at her,
21 embarrassed her.

22 Q. Anything else?

23 A. I don't have any written recording
24 of the conversation specifically, no.

25 Q. Was she specific about what Sam

1 PATRICK LENTO, M.D.

2 was saying to her when they had that
3 incident?

4 A. It was my understanding that Sam
5 was frustrated with Dr. Varughese because
6 she refused to cover when she was being
7 asked to do so.

8 Q. Did Dr. Varughese report to you
9 that Dr. McCash had said to her that she
10 would never be successful?

11 A. I don't recall that specifically.

12 Q. Do you recall Dr. Varughese
13 telling you that Dr. McCash said to her
14 that no one liked her?

15 A. I don't recall that specifically.

16 Q. Would it ever be appropriate for
17 a chief resident to say to a resident that
18 they are going to be unsuccessful?

19 A. I don't think that that would be
20 appropriate, no.

21 Q. How about saying that "No one
22 likes you"? Would that ever be
23 appropriate to say that?

24 A. I would not say that that would
25 be appropriate.

1 PATRICK LENTO, M.D.

2 Q. What did Dr. Maniar say at the
3 meeting?

4 A. You would have to ask Dr. Maniar
5 specifically what she said. But I asked
6 Dr. Maniar to be present because she was
7 present at the time of the altercation.

8 Q. The time may come where I speak
9 to Dr. Maniar. But right now you are
10 here. I'd like to know your recollection
11 of what Dr. Maniar said.

12 A. Yes, sir. Leena had said that
13 Sam had yelled at her and embarrassed her.
14 If I recall correctly, she may have said
15 he screamed at her. And I said okay.

16 I asked Dr. Maniar if she agreed
17 with that. And she did not corroborate
18 that account. Again, my recollection is I
19 asked -- Dr. Varughese had told me that it
20 was so loud that obviously Dr. Pessin
21 would have heard because her office was
22 right next door and everybody out in the
23 antechamber would have heard as well.

24 Q. Where was this incident that had
25 occurred?

1 | PATRICK LENTO, M.D.

2 A. Based on my understanding, it
3 was a conference room on the eighth floor
4 of the Icahn Building.

5 Q. Was Dr. Maniar there for the
6 incident?

7 A. I believe she was, yes.

8 Q. What time of day did the meeting
9 between yourself, Dr. Maniar and
10 Dr. Varughese take place?

11 A. I don't recall the specific
12 time. It was the following day.

13 Q. Let me show you what was
14 previously marked as Defendant's Exhibit
15 6. I'll give you a moment to review that.
16 I'll represent to you it's an email, dated
17 September 16, 2010, from Dr. Varughese to
18 you.

19 (Witness reviews document.)

Q. Do you recall seeing this email?

21 A. No, sir.

Q. In it, Dr. Varughese writes the next day after she had sent the email as of 4:08 p.m. that she had not heard back from you, again raising the issue of a

1 PATRICK LENTO, M.D.

2 joint meeting with you and Dr. McCash.

3 Does this email refresh your recollection
4 as to the timing of when you met with
5 Dr. Varughese and Dr. Maniar?

6 A. No, not necessarily.

7 Q. Do you know whether or not the
8 meeting occurred on the evening of
9 September 16 or was it sometime after
10 that?

11 A. My recollection was that it was
12 a Tuesday morning that the incident
13 occurred. I could be wrong.

14 Q. Going back to -- actually going
15 back to Defendant's Exhibit 5. If you
16 could put that before you. This was an
17 email, dated Tuesday, September 14, at
18 10:34 p.m., when Dr. Varughese writes that
19 she was yelled at this morning by
20 Dr. McCash. So you are correct it was a
21 Tuesday.

22 But going to Defendant's Exhibit
23 6, it's two days later on Thursday,
24 September 16, when Dr. Varughese was
25 following up.

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2 Do you know why there was a
3 delay between you reaching out to
4 Dr. Varughese and her email on Defendant's
5 Exhibit 5?

6 MR. McEVOY: Defendant's Exhibit
7 5 or Defendant's Exhibit 6?

8 MR. WRONKO: Let me rephrase
9 that.

10 Q. Do you know why there was a
11 delay in terms of responding to
12 Dr. Varughese's initial email on
13 Defendant's Exhibit 5 all the way through
14 Thursday, September 16 as of 4:08 p.m.?

15 MR. McEVOY: Objection to the
16 form. The witness said he met with them
17 on the next day after the email.

18 Q. If in fact you had met with
19 Dr. Varughese the next day, that would
20 have been September the 15th. Why is it
21 that Dr. Varughese would have written you
22 "I haven't heard back regarding my
23 complaint on Sam about his shouting and
24 inappropriate comments"?

25 A. That would be for Dr. Varughese

1 PATRICK LENTO, M.D.

2 to answer.

3 Q. Does that refresh your
4 recollection that the meeting did not, in
5 fact, take place on September 15?

6 A. No. Again, I do not believe
7 that this helps clarify.

8 Q. Was this email on Defendant's
9 Exhibit 6 an attempt by Dr. Varughese to
10 follow up after the meeting?

11 A. It may have been, yes.

12 Q. Because I do see in the re line
13 "Meeting follow-up." So I apologize for
14 that.

15 A. No problem.

16 Q. Did you, in fact, follow up with
17 Dr. Varughese after the meeting in
18 accordance with this email, dated
19 September 16th?

20 A. Specifically, I don't recall.

21 Q. Take me through whatever steps
22 you had taken with regard to this incident
23 in addition to meeting with Dr. Maniar and
24 Dr. Varughese. Did you do anything else?

25 A. So Leena made an assertion

1 PATRICK LENTO, M.D.

2 during the meeting I had with her and
3 Dr. Maniar that obviously, as we
4 discussed, Sam had yelled at her.

5 Something to the effect that she was being
6 perhaps singled out for coverage.

7 My recollection is that she said
8 something about everyone being against
9 her. And I remember telling Leena that if
10 she thought everybody was against her,
11 that it's possible, then, that the problem
12 wasn't necessarily everyone else. Perhaps
13 it was her. And she might want to
14 consider reflecting on the situation and
15 consider that, you know, maybe she would
16 bear some of the responsibility.

17 I also told Dr. Varughese at
18 that time of the meeting that I would meet
19 and speak with Dr. McCash. But I don't
20 recall specifically indicating to
21 Dr. Varughese that I would get back to her
22 about anything in particular.

23 Q. Did you tell her at that meeting
24 that sometimes people yell?

25 A. I don't recall using that

1 PATRICK LENTO, M.D.

2 phraseology specifically.

3 Q. Let's go beyond this particular
4 meeting. Did you ever tell Dr. Varughese
5 in response to any complaint that she had
6 made that sometimes people yell?

7 A. I would have indicated that a
8 resident may have been reprimanded. And
9 it's possible that I said might have been
10 yelled at.

11 Q. Well, that's not my question.
12 My question is whether or not you ever
13 said with regard to someone who had raised
14 their voice at Dr. Varughese that sometimes
15 people yell.

16 A. Again, I think that that's
17 asking me to specifically remember every
18 word that I said. And I just can't
19 confirm that.

20 Q. Did you ever tell Dr. Varughese
21 that the residency program is a dysfunctional
22 family?

23 A. That's not an analogy I would
24 make. I may have referenced it. But
25 that's not an analogy I would have made.

1 PATRICK LENTO, M.D.

2 Q. You specifically recall
3 Dr. Varughese indicating that she felt she
4 was being singled out?

5 A. She just said that everyone was
6 against her.

7 Q. She didn't say that she was
8 being singled out for coverage?

9 A. No. That wasn't the impression
10 I got. And I don't believe that was what
11 she intended.

12 Q. But I thought that you had just
13 previously testified that she had said
14 that she felt she was being singled out
15 for coverage. She didn't say that?

16 MR. McEVOY: Objection. That's
17 not what the witness said.

18 MR. WRONKO: We can go back to
19 the transcript.

20 MR. McEVOY: We can.

21 MR. WRONKO: I'm not hallucinating.

22 A. I don't recall that she was
23 specifically saying that she was being
24 singled out for coverage.

25 Q. Did you speak with anyone from

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1 PATRICK LENTO, M.D.

2 GME with regard to this incident?

3 A. I don't recall doing that, no.

4 Q. Did you speak with Dr. Barnett?

5 A. I don't recall speaking to
6 Dr. Barnett about this, no.

7 Q. Let me show you what was marked
8 as Pessin Exhibit 3.

9 (Witness reviews document.)

10 Q. Do you recall receiving this
11 email from Dr. Pessin-Minsley as of
12 September 15, 2010?

13 A. I do recall communication with
14 Dr. Pessin-Minsley. I'm not sure if it
15 was an email or not. Because I did speak
16 with her as well.

17 Q. She writes "This whole thing
18 needs to be brought to Scott's attention."

19 Did you have any communications
20 with Dr. Pessin-Minsley about involving
21 Scott Barnett in this particular situation?

22 A. I did speak with her. She is
23 referring, I believe, specifically to the
24 incident regarding the mishandled cytology
25 specimen that she references here.

1 PATRICK LENTO, M.D.

2 Q. Did you speak with Dr. Barnett
3 about the mishandled cytology specimen?

4 A. I do not recall speaking with
5 Dr. Barnett. At that time, I did not
6 think that Dr. Barnett needed to be
7 involved.

8 Q. Do you know whether or not
9 anyone from GME was involved with this
10 incident?

11 A. I don't know.

12 Q. When was it that you spoke with
13 Dr. McCash or did you speak with
14 Dr. McCash about this incident?

15 A. Yes. I don't know specifically
16 when. But I did speak with Dr. McCash.

17 Q. Who was present when you met
18 with Dr. McCash?

19 A. Just Dr. McCash.

20 Q. Did you maintain any notes from
21 your meeting with Dr. McCash?

22 A. Not at the time, no.

23 Q. What do you mean not at the
24 time? Did you ever generate any notes
25 about that meeting?

1 PATRICK LENTO, M.D.

2 A. Yes, I did. I generated some
3 notes from the meeting with Dr. Varughese
4 and Dr. Maniar. I jotted down some things
5 that were in a sense a reminder to me
6 about, you know, speaking with Sam.

7 Q. Did you retain those notes?

8 A. Yes.

9 MR. WRONKO: I'll follow up with
10 a letter to make sure those notes were
11 produced.

12 Q. Tell me what was said at your
13 meeting with Dr. McCash.

14 A. I don't think I can give you
15 specifically what happened. We are
16 talking about a number of years ago.

17 Q. Your best recollection.

18 A. Sure. Dr. McCash was chief
19 resident with Dr. Maniar. He had started
20 officially in July of that year, which was
21 2010. This incident had happened the
22 beginning of September. So he was
23 relatively new to the position. The
24 purpose of the meeting was in a sense to
25 educate Dr. McCash about how to

1 PATRICK LENTO, M.D.

2 potentially address, you know, similar
3 situations.

4 Q. Tell me what was said at the
5 meeting. Do you recall Dr. McCash saying
6 anything to you at the meeting?

7 A. I don't recall what he said, no.

8 Q. Did you believe at that point
9 that Dr. McCash had mishandled his
10 interactions with Dr. Varughese?

11 A. It was his job as the chief
12 resident to oversee the resident pool. If
13 he did, in fact, yell, that may not have
14 been appropriate. And my job I felt at
15 that point was to educate Dr. McCash about
16 how to handle similar situations in the
17 future.

18 Q. Would you consider your
19 conversation with Dr. McCash as being an
20 informal disciplinary meeting, akin to
21 what you had previously described as being
22 an informal process, versus a formal
23 process of discipline?

24 A. Well, my recollection was that
25 based on my investigation, the facts did

1 PATRICK LENTO, M.D.

2 not corroborate with what Dr. Varughese
3 had said about the screaming such that it
4 was heard obviously throughout the area.
5 I spoke with Dr. Pessin-Minsley and she
6 said she heard nothing. She spoke with
7 her staff. They all said they heard
8 nothing.

9 So it was my feeling at the time
10 that while he may not have had the best
11 interaction with Dr. Varughese that this
12 was an educational point, whether or not
13 it had specifically been as Dr. Varughese
14 had laid out. Again, I thought it was an
15 educational opportunity.

16 So yes, it was a one-on-one
17 interaction.

18 Q. Did you ask Dr. McCash to write
19 a self-reflection?

20 A. No, sir.

21 Q. Did you ask Dr. McCash to read a
22 book on professionalism?

23 A. No, sir. Nor did I ask
24 Dr. Varughese based on the incident to do
25 the same.

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1 PATRICK LENTO, M.D.

2 Q. Why is it with regard to his
3 interaction with Dr. Varughese that you
4 did not ask Dr. McCash to write a
5 self-reflection?

6 A. Again, based on my investigation,
7 it didn't seem to corroborate Dr. Varughese's
8 account of the story. So under those
9 circumstances, I felt that the best course
10 of action was to speak with Sam and
11 educate him about how best to handle
12 himself in future situations.

13 Q. When you were investigating the
14 situation, were you solely trying to find
15 out whether or not Dr. McCash's voice had
16 carried beyond the conference room or were
17 you actually trying to find out whether he
18 had raised his voice, regardless of
19 whether it was heard down the hall?

20 A. I was trying to find an account
21 of what had happened from the people who
22 were apparently involved. And I asked
23 Dr. Maniar at the meeting with Dr. Varughese
24 if she agreed with what Dr. Varughese was
25 saying. And she said no. She pointedly

1 PATRICK LENTO, M.D.

2 said to Dr. Maniar.

3 Q. Did you attempt to speak with
4 any other witnesses from that particular
5 incident?

6 A. I wasn't aware that there were
7 other witnesses.

8 Q. Did you ask any of the people
9 who you spoke to how many people were in
10 the room and who was there?

11 A. I don't recall.

12 MR. McEVoy: When you are done
13 with this line, can we take a break?

14 MR. WRONKO: Let's take a break
15 now. That's fine.

16 (Recess: 11:48 to 11:59 a.m.)

17 BY MR. WRONKO:

18 Q. We are back on the record. You
19 are still under oath.

20 Did you expect all female residents
21 to smile all the time?

22 A. No, sir.

23 Q. Did Dr. Maniar say at the
24 meeting with Dr. Varughese about that
25 incident in September 2010 with Dr. McCash

1 PATRICK LENTO, M.D.

2 that Dr. McCash was out of line or acted
3 inappropriately?

4 A. I don't recall her saying that,
5 no.

6 Q. After that incident leading up
7 to December the 8th, do you have any
8 knowledge of Dr. Varughese's job performance?

9 A. No, sir.

10 Q. What was expected at that point
11 with regard to conference attendance of
12 residents? We are talking late 2010.

13 A. Conferences? There are
14 educational conferences that are part of
15 the residency. I assume that's what you
16 are referring to.

17 Q. Yes.

18 A. Residents were expected to
19 attend conference. It is part of their
20 educational program.

21 Q. Do you know whether or not
22 Dr. McCash had to send out a resident-wide
23 email with regard to poor attendance by
24 residents at the conferences during that
25 period of 2010?

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2 A. I don't have a recollection of
3 that, no.

4 Q. Do you recall there being a
5 problem with resident attendance at those
6 conferences?

7 A. Yes.

8 Q. What was the problem that you
9 recall?

10 A. Attendance issue. That's the
11 problem.

12 Q. Did you do anything at that time
13 to address that issue?

14 A. Yes.

15 Q. What did you do?

16 A. We reinforced the policy,
17 unwritten policy that the residents were
18 required to attend their educational
19 conference.

20 Q. Was anyone disciplined because
21 of failure to attend conference from that
22 period of 2010 through June 2011?

23 A. No formal discipline.

24 Q. Any informal discipline?

25 A. I'm sure that there was, yes.

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1 PATRICK LENTO, M.D.

2 Q. Do you recall who received
3 informal discipline?

4 A. No, sir.

5 Q. Do you know who administered
6 that informal discipline?

7 A. It would have been a reminder
8 from the chief residents and a referral to
9 me if it were persistent.

10 Q. Did you receive any complaints
11 about Dr. Varughese from anyone between
12 September 15, 2010, and December 7, 2010?

13 A. I don't recall.

14 Q. Where were you during the week
15 of December 8, 2010? Were you at the
16 hospital or were you elsewhere?

17 A. During the week?

18 Q. Yes. Let's just keep it
19 December 8 through December 10th, 2010.

20 A. I was away at a meeting.

21 Q. Where was your meeting?

22 A. I believe it was in California.

23 Q. At that point in 2010, were you
24 able to check emails when you were away?

25 A. I don't recall at that particular

1 PATRICK LENTO, M.D.

2 time.

3 Q. Do you recall on that particular
4 trip reviewing any emails that had come
5 in?

6 A. I don't remember.

7 Q. When was the very first time
8 that you had heard that there was an
9 incident between Dr. Varughese and
10 Dr. McCash on December 8?

11 A. I don't remember the specific
12 day.

13 Q. Do you recall whether it was on
14 the same day of the incident or some day
15 after that?

16 A. I believe it was some day after
17 the actual incident.

18 Q. How did you find out about it?

19 A. I believe it was by email.

20 Q. Whose email?

21 A. Well, there were several emails.
22 I don't recall who sent the first email.

23 Q. When you returned to the
24 hospital, did you meet with anybody about
25 the incident that had occurred on December

1 PATRICK LENTO, M.D.

2 the 8th?

3 A. Yes, sir.

4 Q. Who did you meet with?

5 A. I met with Dr. Pessin.

6 Q. Was anyone else present?

7 A. I don't believe so at the time,
8 no.

9 Q. Tell me what the two of you
10 discussed.

11 A. We discussed the incident that
12 had occurred that you referred the prior
13 week. Melissa had -- Dr. Pessin had
14 indicated to me that she had already been
15 investigating.

16 Q. Anything else?

17 A. I believe she indicated that she
18 had already spoken to the GME office and
19 legal.

20 Q. Did she tell you why she had
21 already spoken with the GME office?

22 A. I don't recall her giving me a
23 specific explanation.

24 Q. Who did she speak to at the GME
25 office?

1 PATRICK LENTO, M.D.

2 A. I don't know.

3 Q. When she said that she had
4 already spoken to legal, was she explicit
5 about who she had spoken to?

6 A. No, sir.

7 Q. Subsequent to that conversation,
8 did you learn who was involved from the
9 GME office?

10 A. I don't recall.

11 Q. What did Dr. Pessin say that she
12 had done to investigate the situation?

13 A. I think the details would have
14 to come directly from Dr. Pessin.

15 Q. So you have no recollection of
16 her advising you about what she had
17 already done to investigate the situation?

18 A. I don't remember the specific
19 details at this time.

20 Q. Do you know who it was who she
21 had interviewed at that time?

22 MR. McEVOY: Objection to the
23 form. You can answer.

24 A. I believe she had met with
25 Dr. Varughese. I don't know if she met

1 PATRICK LENTO, M.D.

2 with any of the others at that point.

3 Q. At that point in time, what
4 position did Dr. Pessin-Minsley hold?

5 A. She was the chairwoman of the
6 department, interim chairwoman.

7 Q. Who did she succeed in that
8 position?

9 A. Dr. Schiller.

10 Q. When did that change occur from
11 Dr. Schiller to Dr. Pessin-Minsley?

12 A. I don't remember the specific
13 month.

14 Q. Do you have any knowledge as to
15 why Dr. Schiller was no longer the chair
16 of the department?

17 A. He stepped down.

18 Q. Do you know any of the
19 circumstances of why he stepped down?

20 A. I don't have any details.

21 Q. Did Dr. Pessin-Minsley share any
22 of her notes with you from any of the
23 interviews that she had conducted in your
24 absence?

25 A. I don't remember reading notes.

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1 PATRICK LENTO, M.D.

2 Q. After you met with Dr. Pessin-
3 Minsley was there any further investigation
4 beyond what she had done?

5 A. Yes.

6 Q. What further investigation was
7 there?

8 A. She had indicated she had
9 already started the investigation. And
10 she asked me to interview some of the
11 people who were present at the time of the
12 altercation.

13 Q. Had Dr. Pessin-Minsley shared
14 any initial thoughts with you as to who
15 was right or who was wrong in that
16 particular incident?

17 MR. McEOVOY: Objection to the
18 form. You can answer.

19 A. I don't recall her having a
20 conclusion at that time, no.

21 Q. What was your understanding of
22 what you were investigating?

23 A. An altercation that occurred on
24 the surgical service during the time
25 period that I was away involving Leena and

1 PATRICK LENTO, M.D.

2 Dr. McCash and several other people.

3 Q. At the time that you began the
4 investigation, what was your understanding
5 of what happened during the altercation?

6 A. My understanding was that Leena
7 was on the surgical service. Dr. McCash
8 had spoken with her about certain samples
9 that needed to be done. There was a
10 request from Dr. McCash to Dr. Varughese
11 not to let anybody else, such as a
12 moonlighter, to handle the samples. And
13 that subsequent to that, Dr. Varughese had
14 apparently given samples that were
15 discussed to the moonlighter. Dr. McCash
16 had become aware and confronted Dr. Varughese
17 about it.

18 Q. At the outset of your
19 investigation, did you know what types of
20 samples were in question?

21 A. The only thing that I recall
22 specifically was a breast type of sample.
23 I don't know if there were others.

24 Q. Do you know whether or not the
25 samples that were delegated by Leena

1 PATRICK LENTO, M.D.

2 Varughese were breast margins?

3 A. That I don't know offhand, no.

4 Q. Did you ever find out during the
5 course of your investigation whether they
6 were breast margins?

7 A. I don't recall, no.

8 Q. Wouldn't it have been important
9 in terms of your investigation to find out
10 specifically what types of samples they
11 were?

12 A. I don't think so, no.

13 Q. Wouldn't you agree that, depending
14 on the sample, the level of complexity
15 would certainly vary?

16 A. But the decision about what
17 needed to be done was indicated from the
18 chief resident to the resident. So there
19 was a very specific communication about
20 what needed to be done and how it should
21 be approached, regardless of any
22 presumption of what should be done. There
23 was a specification about it.

24 Q. Let's talk about that for a
25 moment. You, of course, went through your

1 PATRICK LENTO, M.D.

2 own residency?

3 A. Yes, sir.

4 Q. You were a fellow. And then you
5 ultimately became an attending physician
6 and then became the director of the
7 program. During the course of all of that
8 experience, did you develop any opinions
9 as to whether or not chief residents
10 should micromanage residents in the way
11 that they perform their responsibilities?

12 A. I don't know that that's
13 necessarily micromanaging them.

14 Q. Well, do you know whether or not
15 Dr. McCash gave on any other occasions
16 very specific instructions as to which
17 samples could or could not be grossed by a
18 resident who was doing grossing who also
19 had moonlighters available?

20 A. I'm not aware.

21 Q. Do you know whether at that
22 point in time there was any change in
23 terms of the -- I'm sorry.

24 Do you know whether or not at
25 that time, December 8, 2010, whether or

1 PATRICK LENTO, M.D.

2 not there was a change in grossing where
3 the residents were not to be receiving
4 samples from attendings to perform
5 grossing on? In other words, was there a
6 change to an attending-only program? Do
7 you understand that?

8 A. I understand the question. I
9 don't remember when that system was put
10 into place.

11 Q. Did you investigate whether or
12 not that system was in place at the time
13 of that incident?

14 A. No, sir.

15 Q. How about a situation -- how
16 about a change of procedure in terms of
17 whether or not residents were permitted to
18 split samples? Was there ever a change
19 away from residents being permitted to
20 split samples with other people who were
21 grossing, such as moonlighters?

22 A. There may have been.

23 Q. Did you investigate that as part
24 of your investigation?

25 A. I did not.

1 PATRICK LENTO, M.D.

2 Q. Isn't it your responsibility as
3 the program director to know what specific
4 procedures for grossing were in place,
5 whether or not the attending-only program
6 was in place, whether residents were
7 permitted to split samples or not?

8 A. I just don't recall.

9 Q. Now, what was your understanding
10 at the beginning of your investigation as
11 to what occurred when Dr. McCash had
12 confronted Dr. Varughese?

13 A. My understanding was that
14 Dr. Varughese became very loud,
15 inappropriate, and threatening to those in
16 the immediate area, and then subsequently
17 outside the immediate area.

18 Q. Did you have any understanding
19 of the manner in which Dr. McCash had
20 raised his concerns with Dr. Varughese
21 prior to Dr. Varughese becoming very loud,
22 inappropriate and threatening?

23 A. My understanding was that
24 Dr. McCash was firm and explicit, but not
25 inappropriate.

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1 PATRICK LENTO, M.D.

2 Q. How did you develop that
3 understanding at the time of the beginning
4 of your investigation?

5 A. Through a combination of email
6 accounts of what had happened that were
7 sent, as well as my direct interview, if
8 you will, of some of those either involved
9 or in the area.

10 Q. My question, though, goes to
11 before you began conducting interviews.
12 Did you have that understanding that
13 Dr. McCash was firm and explicit but not
14 inappropriate prior to conducting your own
15 interviews?

16 A. That was my understanding.

17 Q. Did you believe, coming into
18 this incident to investigate it, that
19 Dr. McCash and Dr. Jordan had greater
20 credibility in your mind than Dr. Varughese?

21 A. No, sir.

22 Q. So why is it that you would have
23 an understanding that Dr. McCash was firm
24 and explicit but not inappropriate prior
25 to you conducting your own interviews?

1 PATRICK LENTO, M.D.

2 A. Based upon emails I had received
3 and my conversation with Dr. Pessin, who
4 had indicated that she had already started
5 the investigation.

6 Q. Was that Dr. Pessin's viewpoint,
7 that Dr. McCash was firm and explicit but
8 not inappropriate?

9 A. I don't recall her specifically
10 telling me that.

11 Q. But in terms of email accounts,
12 had you received an email account from
13 Dr. Varughese?

14 A. Yes, sir.

15 Q. So are you telling me that you
16 believed certain email accounts but not
17 other email accounts at the point in time
18 that you began your own investigation?

19 A. That was my understanding. The
20 point of the investigation was to try to
21 hash out the facts and make a determination.

22 Q. So had you prejudged this
23 investigation prior to conducting
24 interviews?

25 A. Not a prejudgment.

1 PATRICK LENTO, M.D.

2 Q. Let me show you what was marked
3 as Pessin Exhibit 7. I'll give you a
4 moment to read that.

5 (Witness reviews document.)

6 Q. Are you ready?

7 A. Yes.

8 Q. I've shown you what has been
9 marked as Pessin Exhibit 7. I want to
10 focus on the top email on the first page
11 where Dr. Pessin-Minsley, even though it's
12 directed to Dr. Bleiweiss your carbon
13 copy, says, "Actually Pat, you need to
14 speak with me first when you get back."
15 She says, "This is actually a very big
16 deal from a number of perspectives and I
17 need to provide you with all of the
18 implications of the situation."

19 Did she explain to you why she
20 believed it was a very big deal?

21 A. Yes, I believe she did.

22 Q. What was her explanation?

23 A. To summarize, there was a
24 behavioral outburst by Dr. Varughese. And
25 she had subsequently left the area without

1 | PATRICK LENTO, M.D.

2 finishing her duties as a resident.

3 Q. Did she tell you what she felt
4 were all of the implications of the
5 situation?

6 MR. McEVOY: She being Dr. Pessin-
7 Minsley?

8 MR. WRONKO: Correct.

9 A. No, sir.

10 Q. Let me show you what was marked
11 as Pessin Exhibit 4. I'd like to draw
12 your attention specifically to the email,
13 dated December 8, 2010, 8:17 p.m., from
14 Samuel McCash, to you, Dr. Pessin-Minsley
15 and a number of other individuals.

16 MR. McEVOY: I would instruct
17 you to read the entire exhibit.

(Witness reviews document.)

19 Q. Is this email that appears on
20 December 8, 2010, one of the emails that
21 you had previously testified to that
22 advised you of the fact that an incident
23 had occurred?

A. Can you repeat that question.

O. sure. This one of the emails

1 PATRICK LENTO, M.D.

2 that you had previously testified to that
3 had apprised you of the fact that there
4 was a confrontation between Dr. McCash and
5 Dr. Varughese?

6 A. Thank you. Yes.

7 Q. Now, if you look at the
8 distribution of this email, it was sent to
9 you, Dr. Pessin-Minsley, Dr. Schiller as
10 well as to a number of cc's, Dr. Bleiweiss
11 whom you have testified was the attending
12 for the breast service.

13 A. Yes.

14 Q. Who is Eileen Hauptman?

15 A. Eileen is one of the
16 departmental administrators who oversaw
17 the grossing room.

18 Q. Who is Jonathan Truong?

19 A. He was the direct supervisor of
20 that lab.

21 Q. Who is Shabnam Jaffer?

22 A. She is another breast attending.

23 Q. Who is Freda Burstyn?

24 A. She was the administrator of the
25 department at the time.

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1 PATRICK LENTO, M.D.

2 Q. Do you have any knowledge or
3 know why the other chief resident was not
4 copied on this email from Samuel McCash?

5 A. I do not, no.

6 Q. Do you know whether in any of
7 the emails involving this situation why
8 Dr. Maniar was not included in them?

9 A. I do not know why.

10 Q. Did you have any communications
11 with Dr. Maniar about this incident?

12 A. I don't recall.

13 Q. Was there any type of a
14 concerted effort to exclude Dr. Maniar,
15 given the fact that she was a female of an
16 Indian descent?

17 A. No, sir.

18 Q. Do you know whether there was
19 any effort to exclude her from being
20 copied with regard to this situation
21 because she had previously supported
22 Dr. Varughese in telling you that
23 Dr. McCash had acted inappropriately back
24 in September of 2010?

25 A. I don't believe I said that

1 PATRICK LENTO, M.D.

2 Dr. Maniar had told me he had acted
3 inappropriately.

4 To answer your question, no, I'm
5 not aware of a reason to have excluded
6 Dr. Maniar. Nor would I say she was
7 intentionally excluded.

8 Q. Do you think it was appropriate
9 for Dr. McCash to have included all of
10 these people on the email, Ira Bleiweiss,
11 Ms. Hauptman, all of the cc's?

12 A. Yes, I do.

13 Q. Why do you believe that?

14 A. Well, again, Dr. Bleiweiss and
15 Dr. Jaffer were the two breast attendings.
16 And, having read through the email, the
17 specimens referred to as Dr. Varughese
18 having handed off to the moonlighter she
19 gave all the Goldfarb cases, that's the
20 attending surgeon. As I mentioned
21 earlier, Mr. Truong and Ms. Hauptman were
22 the supervisory people for that particular
23 area. Mrs. Burstyn was the departmental
24 administrator. So I don't see that as
25 unusual.

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1 PATRICK LENTO, M.D.

2 Q. What are Goldfarb cases?

3 A. Those are typically breast
4 cancer cases. Dr. Goldfarb is the
5 attending surgeon. She is a prominent or
6 was a prominent surgeon at the time. I
7 don't know where she is now.

8 Q. But with regard to the Goldfarb
9 cases, Dr. McCash had reported that
10 Dr. Varughese wanted to give margins of
11 the Goldfarb cases to the moonlighters; is
12 that accurate?

13 A. What he indicated here is she
14 gave all the Goldfarb cases. He doesn't
15 say that it was margins or anything. All
16 to me might suggest that it was all parts
17 of the case.

18 Q. Was that your understanding by
19 the end of the investigation, that she had
20 given all of the Goldfarb cases to the
21 moonlighter to do?

22 A. I think it's irrelevant.

23 Q. Well, why would that be
24 irrelevant? Isn't it significant to know
25 whether it was simply a margin versus more

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1 PATRICK LENTO, M.D.

2 substantial breast cases?

3 MR. McEVOY: Objection. Asked
4 and answered. You can answer again.

5 A. No, sir.

6 Q. So even if it was a simple
7 margin, it would have been appropriate, in
8 your eyes?

9 A. You are calling it a simple
10 margin.

11 Q. Well, is there no such thing?

12 A. There is no such thing.

13 Q. With regard to your steps in the
14 investigation, who did you interview?

15 A. I spoke with Dr. Bleiweiss. I
16 spoke with Dr. Jaffer. I spoke with
17 Dr. Azar. I spoke with Dr. Grunes.

18 Q. Did you maintain notes of your
19 interview with Dr. Jaffer?

20 A. No, sir.

21 Q. Why didn't you maintain any
22 notes of your interview with Dr. Jaffer?

23 A. I don't have a reason.

24 Q. What did you ask Dr. Jaffer?

25 A. I asked her what happened.

1 PATRICK LENTO, M.D.

2 Q. What did she tell you?

3 A. She wasn't present at the
4 initial part of the altercation. She
5 indicated that she came in and Leena was
6 yelling. And I believe she tried to calm
7 the situation, if I recall correctly.

8 Q. Did she make any commentary
9 about what Dr. McCash was doing when she
10 arrived on the scene?

11 A. I don't recall.

12 Q. Did you ask her?

13 A. I asked her to tell me what
14 happened.

15 Q. Did she say anything about
16 Dr. McCash?

17 A. I don't recall.

18 Q. Do you recall asking about what
19 she observed of Dr. McCash's behavior?

20 MR. McEVOY: Objection. Asked
21 and answered one more time.

22 Q. You can answer.

23 A. Can you repeat the question,
24 please.

25 Q. Do you recall asking her

1 PATRICK LENTO, M.D.

2 specifically about anything that she
3 observed about Dr. McCash's behavior?

4 A. Thank you. No, sir.

5 Q. Did Dr. Jaffer advise you that
6 Dr. McCash had used profanity?

7 A. I don't recall.

8 Q. Would it have been appropriate
9 for Dr. McCash to use profanity?

10 A. No.

11 Q. Did you ultimately conclude that
12 Dr. McCash was administering verbal
13 discipline to Dr. Varughese by speaking to
14 her in the gross room?

15 A. Yes. He was following up on his
16 initial discussion with Dr. Varughese.

17 Q. What was Dr. Varughese doing
18 when Dr. McCash first entered the room
19 right before the confrontation began?

20 MR. McEVOY: Wait. Are you
21 asking the witness to tell you about
22 something that he wasn't there for?

23 MR. WRONKO: Fair enough.

24 Q. What did your investigation
25 conclude that Dr. Varughese was doing when

1 PATRICK LENTO, M.D.

2 Dr. McCash first entered the room?

3 A. I don't know. I don't know what
4 she was doing.

5 Q. You don't know whether or not
6 she was grossing a specimen?

7 A. I would have to make a presumption.

8 Q. If you had conducted a thorough
9 investigation, wouldn't you have known
10 what was going on when Dr. McCash
11 initially approached Dr. Varughese?

12 MR. McEVOY: Objection to the
13 form. You can answer.

14 A. An account doesn't specify
15 specifically every minor detail, if she
16 was washing her hands at the time or she
17 was standing by the computer.

18 Q. So from your perspective, it
19 would have been a minor detail to know
20 what Dr. Varughese was doing in the gross
21 room when Dr. McCash came in?

22 A. I can tell you I would presume
23 she was grossing.

24 Q. But isn't that very significant
25 to know whether she was administering

1 PATRICK LENTO, M.D.

2 patient care at the time that Dr. McCash
3 chose to confront her?

4 A. I don't believe so.

5 Q. Okay. Is it standard procedure
6 at Mount Sinai Medical Center in the
7 residency program to administer discipline
8 when residents are in the middle of
9 administering patient care?

10 MR. McEVOY: Objection to the
11 form. You can answer.

12 A. He asked her why she hadn't
13 performed the examination of the specimens
14 that he had requested.

15 Q. But answer my question. Is it
16 your position that it would be appropriate
17 to confront a resident while they are in
18 the middle of administering patient care?

19 MR. McEVOY: Same objection.
20 You can answer.

21 A. If needed, yes.

22 Q. So in your mind, is it
23 irrelevant whether or not patient care is
24 being administered as to whether or not
25 someone is sparking a confrontation?

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1 PATRICK LENTO, M.D.

2 MR. McEVOY: Objection to the
3 form. You can answer one more time.

4 A. The confrontation was
5 specifically related to patient care. He
6 was trying to correct the situation.

7 Q. How was it related specifically
8 to patient care as opposed to simply
9 delegation of responsibility?

10 A. Because a margin -- my
11 understanding from reading the email and
12 being a pathologist, the involvement of
13 the margins are included as a very
14 important part of the case, whether there
15 is one part or 20 parts. And the
16 rationale behind that is because
17 ultimately the person who is going to be
18 signing it out needs to have an
19 understanding about what was done with the
20 specimen in certain circumstances.

21 Q. But hadn't it been in the case
22 in the gross room that specimens,
23 including breast specimens, had been split
24 all the time by residents and that as of
25 December 8 there had been no change in

1 PATRICK LENTO, M.D.

2 that procedure?

3 A. I'm not aware.

4 Q. As the program director who was
5 administering academic advisement arising
6 out of this situation, didn't you have a
7 duty to find that out?

8 A. No, sir.

9 Q. Why didn't you have a duty to
10 find that out?

11 A. Because there was a direct
12 request from Dr. McCash that Leena include
13 the margins as part of her examination of
14 the specimens.

15 Q. So it just comes down to the
16 fact that the chief resident said to do
17 it. And in your mind, Dr. Varughese
18 didn't follow that instruction, correct?

19 A. Dr. McCash had made the request
20 of Dr. Varughese. And she did not follow
21 her responsibility in that circumstance.

22 Q. Do you know whether or not this
23 chief resident, Samuel McCash, was keeping
24 a list specific to Dr. Varughese about why
25 he felt she was a troubled resident?

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2 A. I'm not aware of that at all.

3 Q. Do you know whether or not he
4 just kept that list to himself about why
5 he felt Dr. Varughese was a troubled
6 resident?

7 A. I'm not aware of any list.

8 Q. So you never saw a list?

9 A. I'm not aware of any list.

10 Q. Did Dr. Pessin ever show you a
11 list that Dr. McCash had been keeping?

12 A. No, sir.

13 Q. Let me show you what was marked
14 as Pessin Exhibit 6. Have you had an
15 opportunity to review Pessin 6?

16 A. Yes.

17 Q. This is an email from Dr. McCash
18 to Dr. Pessin-Minsley, dated December 9,
19 2010, 1:13 p.m. after the situation
20 wherein Dr. McCash makes reference to his
21 Leena list. Did you ever see this email
22 exchange?

23 MR. McEVOY: Objection. There
24 is no reference to a Leena list.

25 MR. WRONKO: In the subject line

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1 PATRICK LENTO, M.D.

2 there is.

3 MR. McEVOY: That is the subject.

4 Correct.

5 Q. Did you ever see this email
6 exchange?

7 A. I do not recall ever seeing
8 this, no.

9 Q. Do you ever recall being apprised
10 that there was a Leena list?

11 A. No, sir.

12 Q. Do you think it was appropriate
13 for this chief resident to be keeping for
14 himself a list of the reasons why Leena
15 has been a troubled resident?

16 A. It's the job of the chief resident
17 to oversee the residents.

18 Q. Do you know whether or not
19 Dr. McCash kept a list for any other
20 resident besides Leena?

21 A. You have to ask Dr. McCash.

22 Q. Would this email have raised any
23 concerns in your mind that Dr. McCash,
24 after having an incident with
25 Dr. Varughese back in September when he

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1 PATRICK LENTO, M.D.

2 was alleged to have been raising his voice
3 and speaking inappropriately to her, was
4 singling her out?

5 MR. McEVOY: Objection to the
6 form. You can answer.

7 A. I don't believe he was singling
8 her out.

9 Q. As of December 9, 2010, did you
10 form your own belief that Leena had been a
11 troubled resident?

12 A. Leena had performed satisfactorily
13 on rotations, except in my understanding
14 those evaluations that I had given her
15 where she was marginal. But I wasn't
16 necessarily aware of all of her evaluations.

17 Q. Given the fact that you had
18 previously counseled in an academic
19 setting Dr. McCash about how he should be
20 appropriately behaving with a resident,
21 why is it that you would immediately
22 assume that his directions to
23 Dr. Varughese were correct and should be
24 followed?

25 MR. McEVOY: Objection to the

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1 PATRICK LENTO, M.D.

2 form. Mischaracterization of his
3 testimony. But you can answer the
4 question.

5 A. Can you repeat the question.

6 (The question was read.)

7 A. Dr. McCash had been selected as
8 the chief resident by the former program
9 director. Such a selection generally
10 implies certain qualities of an
11 individual. And the prior incident that
12 you refer to had been already dealt with.

13 Q. Coming into your investigation,
14 did you have any concerns that this might,
15 in fact, be a pattern by Dr. McCash in
16 terms of the way that he would be
17 approaching this particular resident?

18 A. The purpose of the investigation
19 was to try to flesh out the details about
20 what had happened, to make a determination.

21 Q. And you don't have any
22 recollection, sitting here today, of any
23 specific inquiries about Dr. McCash to
24 Dr. Jaffer, do you?

25 A. No, sir.

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2 Q. Would it surprise you that in
3 Dr. Figur's investigation, it was
4 disclosed that Dr. McCash had used
5 profanity?

6 A. Yes.

7 Q. If his investigation turned that
8 up and yours didn't, do you believe that
9 your investigation was completely thorough?

10 A. That's one point that you are
11 bringing up.

12 Q. Isn't it an important point?

13 A. It might be. But that's one
14 point that you are bringing up.

15 Q. Is it ever appropriate for a
16 chief resident to use profanity when
17 dealing with another resident?

18 A. No, sir.

19 Q. Are you aware of a physician at
20 Mount Sinai Medical Center who was put on
21 final written warning for cursing out a
22 subordinate?

23 A. No.

24 Q. Dr. Pessin-Minsley testified
25 that she could not recall the name, but

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1 PATRICK LENTO, M.D.

2 there was a physician who cursed out one
3 of the members of her staff. You are
4 unaware of that?

5 A. Yes.

6 Q. Do you know whether or not
7 Dr. Adrienne Jordan was sending out emails
8 about her accounts with Dr. Varughese?

9 A. Yes, I believe Dr. Jordan also
10 sent out an email.

11 Q. Wasn't it multiple emails?

12 A. My recollection is she sent out
13 two emails.

14 Q. Let me show you what was marked
15 as Pessin Exhibit 10.

16 Have you ever seen this email
17 chain before?

18 A. Not in the chain. I'm not on.

19 Q. How about the email on the final
20 page?

21 A. Right. Well, I'm indicated in
22 the address.

23 Q. Okay. Dr. Jordan wrote an
24 email, dated December 10, 2010, at 5:35
25 p.m. Do you know why Kruti Maniar was

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1 PATRICK LENTO, M.D.

2 excluded from this email?

3 A. I do not know.

4 MR. McEVOY: Objection to the
5 form.

6 Q. Dr. Jordan describes a
7 conversation she had with Dr. Varughese.
8 Did you view it as inappropriate for
9 Dr. Jordan to have engaged Dr. Varughese
10 in this conversation?

11 MR. McEVOY: Objection to the
12 form. You can answer.

13 A. My understanding from reading
14 the email is that Dr. Varughese is the one
15 who engaged Dr. Jordan.

16 Q. Isn't it also the case that
17 Dr. Jordan entertained that engagement?

18 MR. McEVOY: Objection to the
19 form. You can answer.

20 A. Yes.

21 Q. Was there anything inappropriate
22 about her entertaining that engagement?

23 MR. McEVOY: Same objection.

24 A. I'm not sure that it was
25 inappropriate.

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2 Q. Now, Dr. Jordan writes "While
3 she never yelled or raised her voice, I am
4 once again concerned about her illogical
5 placement of blame on myself and her
6 consistent 'flight of ideas.'" And in
7 parentheses "(Yes. I realize the irony in
8 that statement)."

9 What was your understanding of
10 what that means, flight of ideas?

11 A. I'm not sure what she meant.

12 Q. Do you know whether or not there
13 is any -- she is making reference to any
14 type of a medical diagnosis there?

15 A. I think you would have to ask
16 Dr. Jordan. I don't know.

17 Q. As a PGY-2, do you think it was
18 appropriate for Dr. Jordan to be writing
19 about another resident that she has flights
20 of ideas?

21 A. I'm not sure that it's
22 appropriate for me to comment necessarily,
23 because I was not part of the investigation
24 at that point. So I don't know if they
25 were verbal communications between

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1 PATRICK LENTO, M.D.

2 Dr. Pessin and Dr. Jordan or others about
3 appropriateness of conversations and so
4 on.

5 Q. I'm asking you as the program
6 director, do you believe that it was
7 appropriate for this particular resident
8 to be making these types of allegations?

9 MR. McEVOY: Objection to the
10 form. You can answer.

11 Q. Making specific reference to
12 flight of ideas.

13 A. That's her opinion.

14 Q. Okay. So as the program
15 director December 2010, you saw nothing
16 inappropriate about a PGY-2 expressing
17 that particular opinion about another
18 resident?

19 A. Again, that was her opinion.

20 Q. But I'm not asking whether it
21 was her opinion or not. I'm asking
22 whether you as the program director felt
23 that it was appropriate for her to be
24 utilizing or expressing her opinion as she
25 did her, making reference to the quoted

1 PATRICK LENTO, M.D.

2 remarks of flight of ideas.

3 A. I'm not sure.

4 Q. Do you know whether or not

5 Dr. Pessin and Dr. Jordan were close?

6 A. I have no idea.

7 Q. Do you know why as of

8 December 11, 2010, Dr. Jordan was writing

9 an email like on the first page in essence

0 lobbying Dr. Pessin to see her point of

-1 | view?

12 MR. McEVOY: Objection to the
13 form. Rephrase.

14 Q. Did Dr. Jordan lobby you to see
15 her point of view during your investigation?

16 A. Not that I recall.

17 Q. Now, do you know whether or not
18 Dr. Jordan also circulated any emails to a
19 large distribution list?

20 A. I have no idea.

21 Q. Let me show you what was marked
22 as Pessin Exhibit 11.

23 (Witness reviews document.)

Q. I want to take you away from
that document for a moment and bring you

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1 PATRICK LENTO, M.D.

2 back to Pessin 10. If you could go back

3 to Dr. Jordan's email on the second page.

4 Go to that email on the second page.

5 Dr. Jordan had written "I explained to her

6 that there was an investigation going on

7 into what happened and she would be able

8 to tell her side of the story. But I

9 didn't want to talk to her about it

10 anymore and in fact I was advised not to

11 speak with her."

12 From your reading of this email,

13 did Dr. Jordan disregard an instruction

14 that she had been given by Dr. Pessin-Minsley

15 not to speak with Dr. Varughese?

16 A. From reading this email, I don't
17 know when that advisement was made, before
18 or after the email.

19 Q. Was Dr. Jordan -- did you advise
20 Dr. Jordan or Dr. McCash not to be
21 speaking with anyone about the investigation?

22 A. I did not.

23 Q. Did you advise them that if they
24 spoke with anyone about the investigation
25 that they could be subject to termination?

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2 A. I did not.

3 Q. So returning now to that email,
4 which is Pessin 11, I'll give you a moment
5 to finish reviewing it. And tell me when
6 you are ready.

7 (Witness reviews document.)

8 Q. Have you ever seen Pessin 11
9 before?

10 A. My name is on it. So...

11 Q. Do you believe it was
12 appropriate for Dr. Jordan to have sent
13 this email to the entire list of people
14 there?

15 A. Well, she was asked to do so.

16 Q. Do you know whether she was
17 asked to send it to everyone on that list?

18 A. I can't answer that question for
19 you.

20 Q. Okay. Now, with regard to
21 Dr. Jordan's final remark in that email
22 where she says, "I agree with Sam and that
23 very serious punitive consequences are
24 called for in this situation," do you
25 think it was appropriate for this PGY-2 to

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1 PATRICK LENTO, M.D.

2 be calling for another resident to be
3 disciplined?

4 A. I don't think it's unreasonable.
5 But it's not her decision.

6 Q. You had previously indicated in
7 response to an email where Dr. Jordan had
8 said that she was going home to puke her
9 brains out that it was a joke. In
10 response to a prior email, you had said
11 that it was her opinion. Now in reference
12 to this email, you said it's not
13 unreasonable. Are you making excuses for
14 Dr. Jordan's unprofessional behavior?

15 MR. McEVOY: Objection to the
16 form. You can answer.

17 A. No, sir.

18 Q. If Dr. Varughese had been making
19 these types of remarks, would you have
20 viewed it as lacking professionalism?

21 A. Isn't that making a conjecture
22 in a theoretical situation?

23 Q. It is. But I'd like to know
24 your opinion.

25 MR. McEVOY: Note my objection

1 PATRICK LENTO, M.D.

2 to the form. But you can answer the
3 question.

4 A. I don't want to speculate.

5 Q. Okay. Fair enough.

6 MR. McEVOY: By the way, it is
7 one o'clock. So whenever you want to
8 break for lunch. Actually it's two
9 minutes or three minutes to one.

10 MR. WRONKO: Let's go another
11 five or ten minutes and then we will take
12 a break.

13 MR. McEVOY: Fine.

14 Q. Did you have a meeting with
15 Dr. Varughese in which you had threatened
16 her with possible termination if she had
17 spoken to or confronted colleagues about
18 the accusations that had arisen from the
19 December 8th incident?

20 A. I don't recall telling Leena
21 that myself, no.

22 Q. Do you recall having a meeting
23 in which you issued her a memo about her
24 confronting colleagues?

25 A. Yes.

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2 Q. When did that meeting take
3 place?

4 A. I don't recall. But it may be
5 dated on a letter.

6 Q. Okay. Tell me what occurred at
7 the meeting.

8 A. Dr. Pessin had convened the
9 meeting in her office, this was after my
10 return from my meeting in California, to
11 talk with Leena.

12 Q. What did Dr. Pessin say during
13 the meeting?

14 A. My recollection is that we
15 indicated that there was an ongoing
16 investigation. We talked with Leena about
17 what had happened. And Dr. Pessin issued
18 the letter.

19 Q. When you say you had discussed
20 what had happened, what specifically were
21 you referring to? Were you referring to
22 the December 8th incident or something
23 else?

24 A. Leena recounted her summary of
25 what had happened.

1 PATRICK LENTO, M.D.

2 Q. But what did you say to her with
3 regard to the notice that was issued?

4 A. I don't recall saying anything
5 specific to her.

6 Q. Do you recall Dr. Pessin-Minsley
7 saying anything specific to her?

8 A. I believe that Dr. Pessin in a
9 sense reiterated or summarized what is
10 written in the letter.

11 Q. I'm going to show you what has
12 been marked as Defendant's Exhibit 7. Is
13 this the notice that you were referring to
14 that was issued to Dr. Varughese?

15 (Witness reviews document.)

16 A. Yes.

17 Q. Now, I'm aware, of course, of
18 the interaction that Dr. Varughese had
19 with Dr. Jordan. And we had looked at
20 that email. But were there any other
21 colleagues that Dr. Varughese had
22 confronted after December 8th that you
23 were aware of?

24 A. Confrontation? I don't recall
25 any other confrontations.

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2 Q. In this notice it says "making
3 various accusations." Were those solely
4 limited to the accusations that she has
5 attributed to have made by Dr. Jordan in
6 her email or were there any other
7 accusations that this is making reference
8 to?

9 A. I didn't write up this letter.

10 Q. Okay. But I'm asking for your
11 understanding.

12 A. I'm not sure.

13 Q. And that is your signature on
14 the letter, correct?

15 A. Yes, it is.

16 Q. What departmental operations had
17 been disrupted during the course of the
18 investigation by Dr. Varughese?

19 A. I don't recall.

20 Q. Why is it that the final line
21 was concluded that "Any additional
22 confrontations may result in disciplinary
23 action, up to and including your removal
24 from service, possibly including
25 termination"?

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2 A. Perhaps so that Leena would
3 understand the seriousness of the
4 situation.

5 Q. Why did you feel because --
6 strike that.

7 I understand that Dr. Varughese
8 had spoken with Dr. Jordan. Why did you
9 feel that it was necessary to threaten her
10 with termination at this particular
11 juncture point because of that one
12 conversation with Dr. Jordan?

13 MR. McEVOY: Objection to the
14 form. You can answer.

15 A. We didn't want to see a pattern
16 of misconduct.

17 Q. Did this notice fall within the
18 disciplinary structure, either
19 disciplinary structure that you had
20 described earlier in your deposition?

21 A. No, I don't believe so.

22 Q. Did Dr. Varughese have any right
23 of appeal, even though there was a threat
24 here of termination from this notice?

25 A. Residents can always potentially

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1 PATRICK LENTO, M.D.

2 appeal a decision. But this wasn't a
3 decision. This was an indication of an
4 ongoing investigation.

5 Q. So was this considered a warning
6 or wasn't it considered a warning?

7 A. I guess this was a warning to
8 her.

9 Q. So did this in fact fall within
10 the formal disciplinary structure or was
11 it part of the informal structure that you
12 had described to me?

13 A. Well, as I said earlier, the
14 informal is more of a conversation between
15 one individual and another individual.

16 Q. Isn't it true that as to
17 Dr. Varughese, that in essence the
18 department was making it up as they went
19 along in terms of the way that they
20 handled the situation and disciplined her?

21 MR. McEVOY: Objection to the
22 form. I direct the witness not to answer.

23 MR. WRONKO: He can answer.

24 MR. McEVOY: No, he can't. I
25 told him he can't. It's an improper

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2 question.

3 MR. WRONKO: I want to know
4 whether or not they were following a
5 formal structure or whether or not they
6 were making it up as they went along.

7 That's a fair question.

8 MR. McEVOY: No, it's not.
9 Making it up as they went along is
10 improper and you know it. If you want to
11 know if they were following the procedure,
12 you can ask him that.

13 Q. Did they follow any set-forth
14 procedure as to Dr. Varughese?

15 A. My understanding is that this
16 occurred after consultation between
17 Dr. Pessin and the GME office.

18 Q. That doesn't answer my question.
19 Was this pursuant to any formal
20 disciplinary structure that was in place?

21 A. I'm not sure I can answer that.

22 Q. In your investigation, did you
23 find out how many specimens Dr. Varughese
24 had grossed?

25 MR. McEVOY: On any particular

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2 occasion?

3 MR. WRONKO: Yes. December 8th.

4 A. Not me personally.

5 Q. Who made the decision to put
6 Dr. Varughese on academic advisement?

7 A. Dr. Pessin and I.

8 Q. Was anyone else involved in that
9 decision?

10 A. Of course.

11 Q. Who else?

12 A. At that time, it would have
13 included the Graduate Medical Education
14 office.

15 Q. Who there?

16 A. Dr. Barnett is the director of
17 that office.

18 Q. Anyone else besides yourself,
19 Dr. Pessin and Dr. Barnett?

20 A. I know that Dr. Pessin had
21 spoken with legal.

22 Q. Was it Maria Lowery who she
23 spoke with?

24 A. I don't know. You would have to
25 ask Dr. Pessin.

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2 Q. Anyone else?

3 A. That would be it.

4 Q. Do you know whether there was
5 any precedent for academic advisement
6 prior to the issuance of the December 21,
7 2010, academic advisement to Dr. Varughese?

8 MR. McEVOY: Objection to the
9 form. You can answer.

10 A. Can you rephrase the question.

11 Q. In the course of issuing the
12 academic advisement, were you made aware
13 of any prior occasion where academic
14 advisement had been given to anyone at
15 Mount Sinai?

16 A. Yes.

17 Q. Okay. Who?

18 A. No particular names.

19 Q. Who advised you that academic
20 advisement had been given to someone in
21 the past?

22 A. Mrs. Burstyn.

23 Q. Freda Burstyn?

24 A. Yes.

25 Q. In what context did she tell you

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2 that?

3 A. She recommended a book that had
4 been utilized in another resident's
5 situation.

6 Q. Was that "Practicing Excellence:
7 A Physician's Manual to Exceptional Health
8 Care"?

9 A. Yes, sir.

10 Q. Did you ever read that book?

11 A. I read through it, yes. Not
12 entirely.

13 Q. How much of it did you read?

14 A. I don't know. I can't tell you.

15 Q. When do you recall reading the
16 book?

17 A. I read it around the time that
18 we gave the advisement, so that I could be
19 aware of what Leena was going to be
20 reading.

21 Q. Who authored the book?

22 A. I believe a physician. Dr. Beeson.

23 Q. What did it talk about?

24 A. Excellence in patient care and
25 the role that a physician has in that

1 PATRICK LENTO, M.D.

2 situation.

3 Q. Did the book address any issues
4 with regard to interaction between
5 physicians?

6 A. I don't recall specifically.

7 MR. McEVOY: Ten after.

8 MR. WRONKO: Let me ask you this.

9 Q. Who was present when
10 Dr. Varughese was given the academic
11 advisement?

12 A. I believe that was just myself
13 and Dr. Pessin.

14 Q. Tell me what was said at that
15 meeting.

16 A. We basically reviewed the
17 letter. It was an account of the incident
18 and a summary of what we had come to
19 conclude, as well as the specific details
20 about what was expected of her as part of
21 the academic advisement.

22 Q. Did you conclude that this
23 entire situation was Dr. Varughese's fault?

24 MR. McEVOY: Objection to the
25 form. You can answer.

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2 A. It was irrelevant if it was only
3 Dr. Varughese's fault. The academic
4 advisement was being addressed
5 specifically to Dr. Varughese based on her
6 conduct and performance.

7 Q. Did your investigation disclose
8 that Dr. McCash had done anything
9 inappropriate?

10 A. Nothing that required a formal
11 disciplinary action.

12 Q. Was there any informal
13 discipline administered to Dr. McCash?

14 A. I don't recall.

15 MR. WRONKO: Okay. Let's take a
16 lunch break.

17 (Lunch recess: 1:11 p.m.)

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2 A F T E R N O O N S E S S I O N

3 2:16 p.m.

4 P A T R I C K L E N T O , M . D . ,
5 having been previously duly sworn,
6 testified further as follows:

7 CONTINUED EXAMINATION

8 BY MR. WRONKO:

9 Q. Good afternoon, Dr. Lento. I'll
10 remind you that you are still under oath.
11 I had follow-up questions from my morning
12 session.

13 Were you ever reprimanded by
14 Mount Sinai?

15 A. No, sir.

16 Q. During the course of your
17 investigation into the December 8th
18 incident, did you interview Renato
19 Valentin?

20 A. No, sir.

21 Q. Who was Renato Valentin?

22 A. I believe he was a physicians
23 assistant.

24 Q. Do you know whether or not he
25 was present on December 8?

1 PATRICK LENTO, M.D.

2 A. I don't know.

3 Q. During an autopsy service
4 following the December 8th incident, did
5 you have the occasion to swing the scalpel
6 close to Dr. Varughese where someone else
7 on the autopsy service had to caution you
8 about the way that you were handling a
9 scalpel?

10 A. I'm not aware of any such
11 incident.

12 Q. Do you know of a neuropath
13 resident who was disciplined in 2010 or
14 2011?

15 A. No, sir.

16 Q. What job title did Freda Burstyn
17 have?

18 A. She was, I guess, interim
19 administrator for the Department of
20 Pathology.

21 Q. What were her job responsibilities?

22 A. You would have to ask her.

23 Q. What role did you observe her
24 playing, if any?

25 A. She was department administrator.

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2 Q. So what exactly did you observe
3 her doing or not doing in the department?

4 A. My job wasn't to observe her
5 doing anything.

6 Q. Did you make any observations as
7 to what she did as an administrator for
8 the department?

9 A. She would oversee the general
10 workings of the department with the
11 chairman.

12 (Plaintiff's Lento Exhibit 2
13 marked for identification.)

14 Q. I'm going to show you what has
15 been marked as Lento Exhibit 2. I'll give
16 you a moment to review the document.

17 (Witness reviews document.)

18 Q. Can you identify the document
19 itself, excluding the handwritten notes on
20 the second page?

21 A. The document is labeled "Notice
22 of Academic Advisement."

23 Q. Is this in fact a true and
24 correct copy of the December 21, 2010,
25 notice of academic advisement?

1 PATRICK LENTO, M.D.

2 A. Yes.

3 Q. Who drafted it?

4 A. I drafted it in consultation
5 with Dr. Pessin, GME office and the legal
6 department.

7 Q. Did anybody redline your draft
8 or change your draft or in any way alter
9 it?

10 A. I don't recall any.

11 Q. This process of academic
12 advisement with Dr. Varughese, did you
13 consider it to be a confidential process?

14 A. Yes.

15 Q. By confidential, who was
16 supposed to be involved with the process
17 of academic advisement for Dr. Varughese?
18 Who would be privy to it?

19 A. Dr. Pessin and I.

20 Q. Anyone else?

21 A. In the department, that may have
22 been it actually.

23 Q. Do you know whether or not
24 during the course of the academic
25 advisement period whether or not that

1 PATRICK LENTO, M.D.

2 confidentiality was strictly maintained?

3 A. I'm not aware of any breaches.

4 Q. Do you know whether or not
5 Dr. McCash was permitted to review
6 Dr. Varughese's self-reflection?

7 A. I don't know.

8 Q. Do you know whether or not
9 Dr. McCash was told about the contents of
10 Dr. Varughese's self-reflection?

11 A. I did not speak to him. I do
12 not know if he was spoken to.

13 Q. Looking at this document, in the
14 very first two sentences it says "One of
15 the chief residents had specifically
16 discussed with you the need for you to
17 gross specific specimen." And in
18 parentheses S. "Instead you had one of
19 the moonlighters handle the specimen." In
20 parentheses S.

21 At the time you drafted the
22 notice of academic advisement, did you
23 know how many specimens in particular were
24 asked to be grossed by Dr. Varughese?

25 A. I don't know the answer to that.

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2 Q. You go on to write "This
3 altercation was upsetting to those
4 present." And in parentheses "including
5 other residents in the gross room, an
6 attending (Dr. Jaffer), and a medical
7 student who felt she needed to leave the
8 area as a direct result of the
9 altercation."

10 Had you spoken with the medical
11 student?

12 A. I did not.

13 Q. What was the medical student's
14 name?

15 A. I think her last -- it was a
16 woman. Her last name I believe was
17 Fernandez. I don't recall her first name.

18 Q. Who were the other residents in
19 the gross room?

20 A. Dr. Azar, who was the
21 moonlighter; Dr. Grunes, who was working
22 with the medical student; and I believe
23 Dr. Jordan.

24 Q. Who was the head moonlighter on
25 that particular service that day?

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2 A. I believe Dr. Azar was the
3 moonlighter.

4 Q. You write that it was noted that
5 you had failed to appropriately gross in
6 cases that should have been taken care of
7 that day.

8 How many cases did you mean to
9 refer to that Dr. Varughese should have
10 taken care of that day?

11 A. Well, there is no set number of
12 cases. It's whatever presents itself on a
13 particular day. She did not complete her
14 day's work after the altercation.

15 Q. Now, is that something that is
16 unusual in the gross room for some
17 specimens to be carried over to the next
18 day of work?

19 A. Well, this is not a question of
20 being carried over. This is a question of
21 just being left there.

22 Q. Okay. So how many specimens
23 were just left there?

24 A. I don't have that number.

25 Q. Was it more than one?

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2 A. I can't speculate.

3 Q. Even though you don't recall the
4 exact number, did you reach any
5 conclusions in your investigation as to
6 how many specimens were just left there?

7 A. My understanding was that the
8 residents, Dr. Azar, Dr. Jordan and
9 Dr. McCash, were the ones who completed
10 the work, including the paperwork.

11 Q. How did you arrive at that
12 understanding?

13 A. That's what they indicated,
14 either in an email or verbally.

15 Q. I'm going to show you what has
16 been marked as Defendant's Exhibit 14. Do
17 you know whether or not Dr. Varughese had
18 grossed the list of specimens that are
19 listed under her name as of December 8,
20 2010?

21 A. I don't know.

22 Q. In arriving at your conclusions
23 in your investigation, had you referred to
24 any chart summarizing the specimens that
25 Dr. Varughese had grossed?

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2 A. No.

3 Q. Under "Problematic areas
4 identified," referring back to the notice
5 of academic advisement, it states "Failure
6 to demonstrate an appropriate level of
7 professionalism and patient care-related
8 lapse (grossing-related responsibilities.)"

9 What precisely was the patient
10 care-related lapse?

11 A. Leaving her specimens, the cases
12 she was responsible for.

13 Q. When you say she just left them
14 there, what was your understanding of what
15 that meant?

16 A. That she left the gross room and
17 didn't complete her work.

18 Q. Was there anything else -- had
19 she left the specimens in any type of an
20 unsafe way? Was there anything else to
21 the patient care-related lapse beyond what
22 you have testified to?

23 A. Not that I can add.

24 Q. And is it your understanding as
25 a result of your investigation that the

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2 remaining samples that Dr. Varughese had
3 left were all performed by the moonlighters
4 and Dr. McCash?

5 A. The other residents who were
6 there, my understanding was that they were
7 the ones who completed the work.

8 Q. Okay. Now, under "Plan of
9 Action" it says "Meeting with the program
10 director or as needed interim chair/chair
11 or others in authority within the
12 Department of Pathology every three to
13 four weeks for continued assessment and
14 advise ment."

15 Was it contemplated that more
16 administrators beyond yourself would be
17 involved in this process of academic
18 advise ment?

19 A. I wouldn't say it was anticipated,
20 no.

21 Q. Was the intent at the outset or
22 was it your intent at the outset that you
23 would be the primary contact with
24 Dr. Varughese moving forward, as opposed
25 to the chair of the Department of Pathology

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2 or any other administrator?

3 A. Yes.

4 Q. Under "Self-reflection
5 exercise," it says "You are expected to
6 write down your account of the situation
7 and describe how you could have approached
8 things in a better fashion, including
9 commentary on physician professionalism
10 and its role in the circumstance."

11 Why was Dr. Varughese being
12 asked to write down her account of the
13 situation?

14 A. This was an educational
15 exercise, as I mentioned earlier. The
16 idea there was that she would read the
17 book on professionalism by Dr. Beeson and
18 potentially learn from the information
19 provided and from her experience and see
20 if she could provide a better way of
21 approaching a similar circumstance down
22 the road.

23 Q. The focus of my question,
24 though, is not on the second part of that
25 sentence, which you just addressed, but is

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2 instead focused on having her write down
3 her account of the situation.

4 Is it fair to say that there was
5 substantial disagreement between you,
6 having conducted an investigation, and
7 Dr. Varughese's versions of events?

8 A. Yes.

9 Q. So why is it, given the fact
10 that there were substantial differences
11 between you and Dr. Varughese about what
12 had occurred, would you have asked her to
13 write down her account of the situation?
14 Hadn't you already received that?

15 A. It was in the context of an
16 educational exercise, summarize in her
17 words what had happened. Obviously she
18 couldn't provide anyone else's account of
19 the events. And in an educational format,
20 address how things could have been more
21 appropriately handled should a similar
22 situation arise in the future.

23 Q. Did you in essence want
24 Dr. Varughese to simply adopt the summary
25 of events contained in the notice of

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2 academic advisement and disregard her
3 beliefs about what occurred during the
4 incident?

5 A. No, sir. That's not indicated
6 here.

7 Q. So you didn't want her to adopt
8 the department's view of what the
9 department claimed happened that day, as
10 opposed to what Dr. Varughese believed had
11 occurred?

12 MR. McEVoy: Objection. Asked
13 and answered one more time.

14 A. No, sir. We asked for her
15 account.

16 Q. When you met with Dr. Varughese
17 to discuss the academic advisement, what
18 did Dr. Varughese say during the meeting?

19 A. What I recall is she wanted to
20 speak with Dr. Stimmel before, I guess,
21 agreeing. And, of course, we allowed her
22 the time to meet and/or speak with
23 Dr. Stimmel, depending upon how she chose
24 to do it.

25 Q. Who is Dr. Stimmel?

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2 A. Dr. Stimmel was the ombudsman
3 for the institution.

4 Q. During the course of that
5 meeting, had Dr. Varughese advised you
6 that she felt that she had been abused by
7 Samuel McCash?

8 A. I don't recall her saying she
9 was abused, no.

10 Q. Did she tell you that Sam McCash
11 had berated her?

12 A. She told me that or she said at
13 the meeting that -- she basically
14 recounted the events as she had previously.

15 Q. But did she tell you that Sam
16 McCash had berated her?

17 A. I don't recall the word "berated"
18 specifically.

19 Q. Did she mention that she
20 perceived Sam McCash to pose a physical
21 threat to her?

22 A. I don't recall her stating that.

23 Q. Did she tell you that Sam McCash
24 had intruded upon her personal space?

25 A. I don't recall her stating that.

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2 Q. Are you aware of the fact that
3 Sam McCash ultimately apologized to Caryn
4 Tiger-Paillex of human resources about the
5 way he handled the situation on December 8?

6 A. That would be a confidential
7 communication between Dr. McCash and human
8 resources.

9 Q. Do you have any knowledge as to
10 why Sam McCash would apologize for the way
11 he had behaved if you believed that he had
12 done nothing wrong?

13 MR. McEVOY: Objection to the
14 form of the question. Mischaracterizes
15 the witness's testimony. You can answer.

16 A. I didn't say he did nothing
17 wrong. He did.

18 Q. So what did he do wrong?

19 MR. McEVOY: I assume you are
20 referring to December 8?

21 MR. WRONKO: Correct.

22 A. I think Sam could have handled
23 the situation differently.

24 Q. How could he have handled it
25 differently?

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2 A. I think there is maybe a number
3 of ways. You would like an example?

4 Q. Sure. Since there are a number
5 of ways, I'd like a number of examples.

6 A. He could have not raised his
7 voice, if that were the case. Although by
8 all indications my understanding was that
9 he was firm but not overly inappropriate.

10 He could have pulled Leena,
11 Dr. Varughese, aside and counseled her in
12 private, as opposed to in the presence of
13 others.

14 Q. Any other things that he could
15 have done differently?

16 A. Those are the things that come
17 to mind right now.

18 Q. You used the phrase "he wasn't
19 overly inappropriate." What is the
20 distinction between being inappropriate
21 and overly inappropriate?

22 A. I would maybe make a comparison
23 perhaps between himself and Dr. Varughese's
24 behavior.

25 Q. How so?

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2 A. The incident was confined to the
3 particular area, whereas Dr. Varughese
4 escalated it and involved two other
5 attendings actually having to leave the
6 area specifically to involve the second
7 attending.

8 Q. With regard to pulling
9 Dr. Varughese aside as being a suggested
10 alternative course of action that
11 Dr. McCash could have taken, would the
12 purpose of that have been to avoid
13 publicly humiliating a resident?

14 MR. McEVOY: Objection to the
15 form. You can answer.

16 A. No, I think that it would be
17 more of a confidential nature. The
18 resident might need to be reprimanded.
19 And he could have done that in a more
20 private setting.

21 Q. Again, doesn't that also go to
22 potentially humiliating that resident in
23 front of co-workers, members of the staff
24 and the like?

25 MR. McEVOY: Objection to the

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1 PATRICK LENTO, M.D.

2 form. Asked and answered one more time.

3 MR. WRONKO: He didn't answer
4 it.

5 MR. McEVOY: He did actually.

6 But I'm not going to argue with you. He
7 can answer.

8 Q. You can answer.

9 A. I think it was more of a
10 confidentiality issue. And any sensation
11 of humiliation is based upon the
12 individual's assessment of the scenario,
13 whether true or not.

14 Q. So let me understand your
15 answer. It would not be your concern as
16 the chair of the department whether or not
17 a resident felt that they were humiliated
18 by being spoken to about an issue in front
19 of their colleagues?

20 A. Of course it would concern me.

21 Q. But in this instance, did it
22 concern you at all?

23 A. Yes, I was concerned.

24 Q. So did you ever speak with
25 Dr. McCash to make some of these

1 PATRICK LENTO, M.D.

2 suggestions that you just testified to?

3 A. I did speak with Dr. McCash
4 after the incident. I don't recall the
5 details of the conversation.

6 Q. There is a handwritten note that
7 appears on the second page of the
8 document. Is that your handwriting?

9 A. Yes, sir.

10 Q. Did you write this note?

11 A. Yes, I did.

12 Q. You also indicated that
13 Dr. Varughese needed to respond by this
14 Thursday, December 23, 2010. Respond with
15 regard to what?

16 A. That she would acknowledge the
17 academic advisement.

18 Q. So what do you mean by acknowledge
19 the academic advisement? What did she
20 have to do?

21 A. That she understood what was
22 expected of her.

23 Q. Did she really have a choice in
24 that matter? She would have to adhere to
25 it, would she not?

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2 A. Yes. It wasn't a question of
3 choice.

4 Q. Did she get back to you by the
5 23rd of December?

6 A. She did not.

7 Q. Did she send you an email on
8 December 23, 2010, with regard to the
9 academic advisement?

10 A. Yes, she did.

11 Q. Did you consider that to be a
12 response?

13 A. No, sir.

14 Q. Let me show you Defendant's
15 Exhibit 16. I'll give you a moment to
16 review it. When you are ready, let me
17 know.

18 (Witness reviews document.)

19 Q. You just testified that
20 Dr. Varughese did not respond to the
21 notice of academic advisement. Why would
22 you consider Defendant's Exhibit 16 not to
23 be a response to the notice of academic
24 advisement?

25 A. The intention was that we would

1 PATRICK LENTO, M.D.

2 meet to discuss the events -- pardon me.
3 Correction. To discuss the academic
4 advisement after her meeting with
5 Dr. Stimmel. What is not included here is
6 that she called out sick on the day in
7 question. And I emailed her to say Leena,
8 you were supposed to get back to me, in a
9 sense to go over the academic advisement.

10 I guess she subsequently
11 submitted this after the fact.

12 Q. After what fact?

13 A. After I had indicated that it
14 was decided at the prior meeting that she
15 would speak with Dr. Stimmel and then get
16 back to us on the day in question. She
17 subsequently called in sick. And it
18 wasn't until I followed up with her about
19 it that she subsequently submitted this.

20 Q. How did you follow up with her
21 about it?

22 A. I emailed her. That's the only
23 way I could. She called out sick.

24 Q. You did receive this email on
25 December 23, 2010?

1 PATRICK LENTO, M.D.

2 A. Yes, I did.

3 Q. And are you suggesting that
4 Dr. Varughese's calling out sick was just
5 a ploy and that she was not actually sick?

6 A. I don't know why she called out
7 sick.

8 Q. But did you view it negatively,
9 given the fact that she had called out
10 sick?

11 A. People are allowed to get sick
12 and are allowed to call out sick. Given
13 that she was under the understanding of
14 the responsibility for that particular
15 day, I would have appreciated that she
16 handled it differently.

17 Q. So even if she were sick, she
18 was expected to come to work?

19 A. No. I would have appreciated a
20 phone call or a specific email saying "I
21 apologize, Dr. Lento. I recognize that I
22 was supposed to get back to you on this
23 day. But I'm sick and unable to handle it
24 at this point."

25 Q. Is the issue with Defendant's

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1 PATRICK LENTO, M.D.

2 Exhibit 16 that you wanted to sit down and
3 have a conversation with Dr. Varughese or
4 is it the contents of Defendant's Exhibit
5 16 that was the problem?

6 A. It's not the contents.

7 Q. It was the fact that you were
8 supposed to have a meeting and there
9 wasn't a meeting?

10 A. Yes.

11 Q. Was there ever a meeting
12 subsequent to Defendant's Exhibit 16 with
13 Dr. Varughese to accomplish the task that
14 you were hoping to accomplish on December
15 23?

16 A. Yes. Not until maybe two weeks
17 later.

18 Q. Two weeks later. Why was it two
19 weeks later?

20 A. It was the holiday season. I
21 was going to be away on vacation.

22 Q. Let's take a look at the email.
23 Dr. Varughese states in the email "I would
24 like the situation would be mediated as
25 soon as possible and would have even

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1 PATRICK LENTO, M.D.

2 agreed to academic advisement if not for
3 the brief summary of events as stated in
4 the notice of academic advisement."

5 Did you ever consider having a
6 mediation between Dr. Varughese and
7 Dr. McCash?

8 A. No, I did not.

9 Q. Why not?

10 A. I didn't feel that it was
11 warranted.

12 Q. You were aware as of December 23,
13 2010, of two situations where Dr. McCash
14 and Dr. Varughese had had confrontations,
15 were you not?

16 A. Yes.

17 Q. So why, given the fact that
18 there had been two prior confrontations,
19 did you not believe that it would be
20 useful for the department to put these two
21 professionals in the same room together
22 and try to iron out the differences?

23 A. Well, for one, we had already
24 dealt with the prior circumstance. At
25 this point, after the holidays, both the

1 PATRICK LENTO, M.D.

2 GME office and human resources were
3 involved at that point. And I didn't
4 think that mediation would accomplish much
5 at that point.

6 Q. In September 2010 when the first
7 incident occurred, there wasn't mediation.
8 And these doctors were not put in the same
9 room to iron out their differences.
10 Following this incident, that did not
11 occur. Did you have any concerns that the
12 department was encouraging a rift between
13 these two doctors rather than sitting them
14 down and trying to work them through the
15 rift?

16 A. No, sir.

17 Q. Because by this point the
18 department was taking sides in the
19 dispute. Isn't that fair to say?

20 MR. McEVOY: Objection to the
21 form of the question. You can answer.

22 A. I don't think this is taking
23 sides. We were addressing Leena's
24 behavior and her performance lapse, if you
25 will, with the academic advisement.

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1 PATRICK LENTO, M.D.

2 Q. Turning to the second page, you
3 have had an opportunity to review it. Is
4 there anything that you believe to be
5 legitimate in what she wrote?

6 MR. McEVOY: Objection to the
7 form. You can answer.

8 A. Based on my understanding, he
9 shouted at her. I would agree.

10 Q. Anything else?

11 A. And I believe that shouting at
12 her was also unprofessional.

13 Q. Anything else that you believe
14 was legitimate or supported in this?

15 MR. McEVOY: Same objection.

16 A. I'm not sure that I have anything
17 to add.

18 Q. Okay. You had previously
19 testified that Dr. Varughese was perceived
20 as being a physical threat to people who
21 were there. What exactly was the physical
22 threat that Dr. Varughese posed to anyone
23 on December 8th, as you may or may not
24 have concluded from your investigation?

25 MR. McEVOY: Objection to the

1 PATRICK LENTO, M.D.

2 form. You may answer.

3 A. My apologies. I don't recall
4 saying that she was a physical threat.

5 Q. Was she threatening to anyone
6 there, regardless of whether it was
7 physical or not?

8 A. I believe so. The medical
9 student apparently felt the need to leave
10 the area, given the situation.

11 Q. Was it ever clarified with that
12 student whether she was specifically
13 threatened by Dr. Varughese or simply the
14 fact that there was a conflict between
15 Dr. Varughese and someone else?

16 A. I didn't speak directly to the
17 student.

18 Q. Did you ever become aware that
19 Caryn Tiger-Paillex of human resources
20 became involved to conduct an investigation?

21 A. Yes.

22 Q. When did you first become aware?

23 A. I don't recall.

24 Q. Do you know how soon after the
25 completion of your investigation you

1 PATRICK LENTO, M.D.

2 became aware?

3 A. No, sir.

4 Q. Did you have any involvement
5 with the human resources investigation
6 into the incident?

7 A. Yes, sir.

8 Q. What involvement did you have?

9 A. I was interviewed by Ms. Tiger-
10 Paillex.

11 Q. Was anyone present besides
12 yourself and Ms. Tiger-Paillex?

13 A. I don't recall anyone else at
14 the meeting.

15 Q. Tell me what was said during the
16 meeting.

17 A. I don't recall the specifics of
18 that meeting.

19 Q. When were you interviewed?

20 A. I don't have the date.

21 Q. Did you have any other further
22 involvement besides being interviewed
23 yourself with the human resources
24 investigation?

25 A. I do not believe so.

1 PATRICK LENTO, M.D.

2 Q. Did anyone from human resources
3 ever advise you about the outcome of the
4 investigation?

5 A. I think yes.

6 Q. Who advised you?

7 A. I believe there was a meeting
8 with human resources.

9 Q. Who was present at the meeting?

10 A. I believe it was myself,
11 Dr. Pessin, Dr. Barnett, Mr. Johnson from
12 the GME office, and Caryn from human
13 resources.

14 Q. Tell me what was said during
15 that meeting.

16 A. I don't recall the details of
17 the meeting.

18 Q. Who spoke at the meeting?

19 A. I don't recall the details of
20 the meeting.

21 Q. I'm sorry. You may have said
22 this. Was Caryn Tiger-Paillex at the
23 meeting?

24 A. Yes.

25 Q. And this was regarding her

1 PATRICK LENTO, M.D.

2 investigation, this meeting?

3 A. I don't recall the specific
4 reason for the meeting.

5 Q. When you first found out that
6 human resources was involved -- strike
7 that.

8 You don't recall how you found
9 out that there was a human resources
10 investigation?

11 A. I don't remember.

12 Q. But when you did find out, did
13 you have any concerns about the fact that
14 now dirty laundry from the Department of
15 Pathology and the residency program was
16 now going out to human resources?

17 MR. McEVOY: Objection to the
18 form. You can answer.

19 A. Can you repeat that, please.

20 Q. Sure. Did you have any concerns
21 that a matter that was internal to the
22 Department of Pathology's residency
23 program was now part of a human resources
24 investigation?

25 A. No. That was an important part

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1 PATRICK LENTO, M.D.

2 of the investigation.

3 Q. Did you welcome that investigation
4 by human resources?

5 A. If Dr. Varughese felt it was
6 necessary and so did human resources, then
7 sure.

8 Q. Was there any other investigation
9 that you knew about going on at the same
10 time as human resources was investigating?

11 A. Yes.

12 Q. What other investigation was
13 ongoing?

14 A. The GME office was also performing
15 their own investigation.

16 Q. Why was the GME office conducting
17 a separate investigation from human
18 resources?

19 A. You would have to ask GME
20 specifically to answer that question.

21 Q. Did you make any referral to the
22 GME office of Dr. Varughese?

23 A. She had already been referred by
24 Dr. Pessin at the time of the initial
25 incident.

1 PATRICK LENTO, M.D.

2 Q. Did you have any involvement
3 with GME's investigation?

4 A. I'm sure that they interviewed
5 me as well.

6 Q. Who was "they"?

7 A. That would have been Mr. Johnson.

8 Q. Did Art Figur have any involvement?

9 MR. McEVOY: Involvement in
10 what?

11 Q. In the interview of you for the
12 GME investigation.

13 A. I don't recall.

14 Q. What is the Physician Wellness
15 Committee?

16 A. Well, Physician Wellness is
17 obviously there to ensure the physical and
18 mental health of physicians, whether they
19 are residents or attendings, et cetera, in
20 a confidential manner.

21 Q. Do you know whether or not there
22 was a separate investigation conducted by
23 members of the PDC from the investigation
24 that was conducted by the GME?

25 A. I believe yes.

1 PATRICK LENTO, M.D.

2 Q. So there were in fact three
3 investigations that went on?

4 A. Well, I'm not sure if the third
5 one would be considered an investigation.
6 I know the Physician Wellness was
7 involved. Whether you want to consider
8 that an investigation or not, you have to
9 ask them specifically.

10 Q. Were you interviewed for the
11 Physician Wellness Committee?

12 A. I don't recall being interviewed.

13 Q. And would it be fair to say that
14 Mr. Johnson had conducted the interview
15 for GME, but that it was Art Figur who was
16 doing the investigation for PWC?

17 MR. McEVOY: Objection to the
18 form. You can answer.

19 A. Dr. Figur was the head of the
20 Physician Wellness.

21 Q. Do you know whether or not Scott
22 Barnett was involved in the GME
23 investigation?

24 A. Well, he is the director of the
25 GME office. I would imagine he was

1 PATRICK LENTO, M.D.

2 involved.

3 Q. Did you have any conversations
4 with Dr. Barnett about whether he needed
5 to speak with Dr. Varughese at the turn of
6 the year in 2011?

7 A. Yes.

8 Q. And what were those discussions
9 about?

10 A. That was as a follow-up to our
11 meeting following our initial presentation
12 of the academic advisement.

13 Q. What did the two of you discuss?

14 A. I let Dr. Barnett know that
15 Leena had called out sick on the day we
16 were supposed to meet and that I was going
17 to schedule another meeting with her at
18 that time or at that point. I did so with
19 Ms. Burstyn or Mrs. Burstyn. And
20 Dr. Barnett had indicated that he would
21 also speak with Leena if necessary.

22 Q. In January of 2011, did you
23 notice whether Dr. Varughese's attitude
24 had improved?

25 A. Yes, I did.

1 PATRICK LENTO, M.D.

2 Q. What did you observe in that
3 regard?

4 A. It was not so much an
5 observation. But if I recall correctly,
6 she was at an outside institution, one of
7 our affiliates, on a rotation. And I just
8 followed up with the site director to see
9 how things were going. And he said that
10 there were no major problems. So I
11 actually believe that I let Dr. Varughese
12 know that.

13 Q. Did you have the occasion to
14 review any of her evaluations from her
15 rotations during the period of the
16 academic advisement?

17 A. No, I did not.

18 Q. When would you as the program
19 director have the occasion to review
20 evaluations of a resident?

21 A. In general, we would do that
22 twice a year, often in November or
23 December and again toward the end of the
24 year. However, residents were in fact
25 assigned to a mentor who was the primary

1 PATRICK LENTO, M.D.

2 person who would do that.

3 Q. Is there a reason why you would
4 not have made it a point to take a look at
5 the evaluations that were being generated
6 for Dr. Varughese by attendings in
7 rotations to determine whether or not
8 these attendings who had regular
9 interaction with her felt that she was
10 maintaining levels of professionalism?

11 A. Without recollecting her
12 particular rotations, that's hard for me
13 to answer.

14 Q. What rotation would Dr. Fowkes
15 have been on?

16 A. She could have been involved in
17 the autopsy service in one of two
18 capacities. Or she could have been in her
19 primary role as a neuropathologist.

20 Q. Were you aware of the fact that
21 in evaluations for the period of March 14,
22 2011, to March 31, 2011, as well as
23 April 1, 2011, to April 10, 2011, that she
24 had given Dr. Varughese sevens in
25 professionalism?

1 PATRICK LENTO, M.D.

2 A. No, I was not aware of that.

3 Q. How about Dr. Petersen? Do you
4 know what rotation Dr. Varughese had with
5 Dr. Petersen from January 17, 2011 to
6 February 13, 2011?

7 A. No, sir.

8 Q. Were you aware of the fact that
9 he had graded her a seven in
10 professionalism during that period of
11 time?

12 A. No, sir.

13 Q. Is a seven close to being at the
14 top of the scale in terms of adhering to
15 what is expected?

16 A. Yes.

17 Q. How about Lakshmi Ramanathan?
18 What area of rotation did Dr. Ramanathan
19 have in the period of in April 25, 2011 to
20 May 8, 2011?

21 A. Dr. Ramanathan was the director
22 of the clinical chemistry rotation for the
23 residents.

24 Q. Were you aware during that time
25 period that this doctor had graded

1 PATRICK LENTO, M.D.

2 Dr. Varughese as a seven for professionalism?

3 A. No, sir.

4 Q. How about Dr. Irini Scordibello?

5 What area would Dr. Varughese have been
6 rotating through?

7 A. Most likely the autopsy service.

8 Q. Dr. Scordibello from January 1,
9 2011 to January 16, 2011, were you aware
10 of the fact that she had graded her an
11 eight in professionalism?

12 A. No, I don't recall.

13 Q. Were any of those scores at all
14 relevant in the way that you were
15 perceiving Dr. Varughese and the way she
16 was conducting herself at Mount Sinai
17 Medical Center?

18 MR. McEVOY: Objection to the
19 form. You can answer.

20 A. We had asked her as a follow-up
21 to the incident to conduct herself in a
22 professional manner. And these
23 individuals felt as they did and indicated
24 so on the evaluation.

25 Q. Putting aside the issue of the

1 PATRICK LENTO, M.D.

2 self-assessment and whether that was
3 timely with Dr. Varughese, were you aware
4 of any incidents during the period of
5 academic advisement with regard to
6 Dr. Varughese that would have warranted
7 any further discipline?

8 MR. McEVOY: During what time
9 period?

10 MR. WRONKO: This is the period
11 of the academic advisement.

12 MR. McEVOY: Okay.

13 A. No, sir.

14 Q. Did you meet with Dr. Varughese
15 during the period of academic advisement?

16 A. Yes.

17 Q. On how many occasions?

18 A. I only recall one.

19 Q. What was the one that you
20 recall?

21 A. It was in February. I believe
22 it was February.

23 Q. Tell me what you recall of that
24 meeting.

25 A. So I had tried to set up

1 PATRICK LENTO, M.D.

2 appointments with Dr. Varughese prior and
3 was unsuccessful. I let her know that we
4 needed to meet for the academic
5 advisement. We also needed to follow up
6 on an autopsy that was outstanding. And
7 so rather than have the situation be
8 solely about the academic advisement, I
9 thought it would be better, better for
10 Leena in a less threatening manner to meet
11 and do some work and then we could follow
12 up on the academic advisement.

13 Q. Did you believe that the
14 academic advisement was threatening?

15 A. No. But that the situation of
16 the meeting might have been perceived as
17 threatening.

18 Q. Why is that?

19 A. Because she wasn't in agreement
20 with the academic advisement.

21 Q. If the point of academic
22 advisement was academic in order to try to
23 encourage this particular resident to
24 learn from perceived mistakes, why did you
25 feel the need, along with your cohorts in

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1 PATRICK LENTO, M.D.

2 the administration to include threats of
3 termination with it?

4 MR. McEVOY: Objection to the
5 form of the question. You can answer.

6 A. Those are to put someone on
7 notice that there are potential consequences
8 of someone's actions.

9 Q. Tell me about this meeting that
10 you had with Dr. Varughese.

11 A. So what I recall is I had --
12 since Leena did not answer my pages
13 generally, I actually emailed her. And I
14 said that I needed to meet with her on a
15 specific date. I believe it was a Friday.
16 And I asked her for the time that would be
17 most convenient for her.

18 Q. Did you in fact meet on Friday?

19 A. We did not.

20 Q. Did you ultimately meet?

21 A. We ultimately met after I waited
22 on the Friday for Dr. Varughese to show up
23 and she did not. I emailed her to say
24 that "You had told me you could be here at
25 5:30, and I waited. It's now," I don't

1 PATRICK LENTO, M.D.

2 even know what time it was at that point.

3 Seven o'clock. Maybe later. "It's

4 obvious that you are not showing up."

5 And we met within the next two
6 weeks, because I was away on vacation the
7 following week.

8 Q. Let me show you what was marked
9 as Defendant's Exhibit 22. Do you recall
10 this email?

11 A. Yes.

12 Q. In this email, in the first
13 email that is sent from you to Leena, you
14 write "I need to meet with you tomorrow.
15 Please let me know of potential available
16 times."

17 A. Mm-hmm.

18 Q. And then Dr. Varughese responds
19 "I can meet with you at 5:30 p.m.
20 tomorrow. May I ask what is the meeting
21 regarding?" You respond "Well, two
22 things. I was hoping we could look at one
23 of your autopsy cases that we have
24 together and also follow up on the
25 academic advisement stuff."

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1 PATRICK LENTO, M.D.

2 Why is it that you did not write
3 back "I'm available at 5:30. Let's set
4 the meeting for that time"?

5 A. Because I had already told her
6 that I needed to meet with her. It was up
7 to her to set the time. She told me the
8 time. I responded to her a question what
9 it would be about.

10 Q. But that isn't true. If you
11 look at the email, you say "Let me know of
12 potential available times." Wouldn't that
13 indicate to someone reading it that you
14 might potentially not be available?

15 A. No. I was going to meet with
16 her regardless of the time she indicated.
17 I wanted to provide her with the leverage
18 or the convenience of time. She gave me
19 one time.

20 Q. Why didn't you tell her that,
21 that she was in essence setting the time
22 of the meeting, as opposed to saying
23 "Please let me know of potential available
24 times," in the plural, saying in other
25 words, you are asking for a choice of

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1 PATRICK LENTO, M.D.

2 times, which indicates that you are busy,
3 doesn't it?

4 A. No, sir.

5 Q. So that's not a fair reading of
6 this email?

7 A. No, sir.

8 Q. For how long had Dr. Varughese
9 not been responding to your pages?

10 MR. McEVOY: Objection to the
11 form. You can answer.

12 A. I don't have a Leena list of
13 infractions.

14 Q. Did it start in the first year
15 of her residency?

16 A. I can't tell you exactly when,
17 no.

18 Q. Did it start in the second year?

19 A. I can't tell you exactly when,
20 no.

21 Q. Did it happen as recent as the
22 rotation you had with Dr. Varughese in
23 December of 2010?

24 A. I can't provide you with a
25 specific example.

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1 PATRICK LENTO, M.D.

2 Q. Isn't it true that in December
3 of 2010, when she was on your rotation,
4 you had given her a passing score of a
5 five with regard to professionalism?

6 A. Yes. That may be true.

7 Q. If in fact she was not
8 responding to your pages, why would you
9 have given her a five?

10 MR. McEVOY: Objection. That's
11 completely mischaracterizing the witness's
12 testimony.

13 Q. You made a broad statement she
14 never answered your pages. Did she answer
15 your pages when she was on that rotation
16 in December 2010?

17 A. I don't recall.

18 Q. So on what do you base your
19 testimony that she did not answer your
20 pages?

21 A. I don't have a documented account.

22 Q. Was this a problem in the
23 residency program in terms of people not
24 responding to pages?

25 A. Not that I recall, no.

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1 PATRICK LENTO, M.D.

2 Q. Was there ever a time in meeting
3 minutes of the residents that the
4 residents in the program were instructed
5 that if they did not respond to pages,
6 they would be disciplined?

7 A. There may have been a reminder
8 to residents to respond to pages.

9 Q. Why would there be the necessity
10 of a reminder if it wasn't a more
11 widespread problem beyond Dr. Varughese?

12 A. We remind residents of many
13 things.

14 Q. Regardless of whether there is a
15 problem with it?

16 A. Of course.

17 Q. Were you being kept abreast of
18 what the Physician Wellness Committee was
19 doing with Dr. Varughese?

20 A. I don't recall being kept
21 abreast.

22 Q. Were you aware of the fact that
23 Dr. Varughese was sent for a toxicology
24 screening?

25 A. She may have been.

1 PATRICK LENTO, M.D.

2 Q. Were you advised of the fact
3 that she was sent to Dr. Fersh, who my
4 understanding is an psychiatrist, for an
5 administrative examination?

6 A. That may be true.

7 (Plaintiff's Lento Exhibit 3
8 marked for identification.)

9 Q. I'll give you a moment to review
10 Lento Exhibit 3. Tell me when you are
11 ready.

12 (Witness reviews document.)

Q. Are you ready?

14 A. Yes.

15 Q. Okay. Do you recall receiving
16 this email?

17 A. Yes.

18 Q. Why is it that you were being
19 kept abreast about what the Physician
20 Wellness Committee was doing with
21 Dr. Varughese?

22 MR. McEVOY: Objection to the
23 form. You can answer.

24 A. That was their decision to
25 advise me of what they have indicated.

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1 PATRICK LENTO, M.D.

2 Q. Were you ever advised about any
3 conclusions that Dr. Fersh had reached?

4 A. No, sir.

5 Q. Why was Dr. Varughese at work
6 during this period, when she was
7 undergoing a toxicology screen as well as
8 an examination by Dr. Fersh?

9 A. There was no indication that she
10 needed to stop her residency to undergo
11 these things.

12 Q. Well, here you have a resident
13 who is being examined by a psychiatrist
14 under order of the institution. Wasn't
15 there a concern that here you have a
16 person who may have a psychiatric
17 condition engaged in patient care?

18 A. A decision to take a leave of
19 absence or something of that nature would
20 be a decision between the resident and a
21 treating physician or the treating
22 physician. That's not a decision for me
23 to make.

24 Q. Wouldn't it be a decision for
25 the department to make to say to

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1 PATRICK LENTO, M.D.

2 Dr. Varughese "Hey, you are going for a
3 toxicology screen. You are being examined
4 by a psychiatrist. Take the week off. We
5 don't want you handling any patient care
6 related issues"?

7 A. No, I don't believe that that
8 would be appropriate.

9 Q. Why wouldn't that be appropriate?

10 A. My understanding of a toxicology
11 test is it's either a urine test or blood
12 test. And I don't know the details of the
13 evaluation that you are referring to.

14 Q. But was there a perception that
15 Dr. Varughese needed to be examined by a
16 psychiatrist?

17 MR. McEVOY: Perception by who?

18 Q. Did you have a perception that
19 Dr. Varughese needed to be examined by a
20 psychiatrist?

21 A. This was not my decision to
22 make.

23 Q. Okay. Whose decision was it to
24 make?

25 A. This was based upon Dr. Figur's

1 PATRICK LENTO, M.D.

2 evaluation as the head of the Physician
3 Wellness Committee.

4 Q. And did Dr. Figur express to you
5 whether he believed that, based on his
6 dealings with Dr. Varughese, that a
7 psychiatric examination would be
8 appropriate?

9 A. Obviously he felt it was
10 appropriate if he made the referral.

11 Q. So did you understand as of
12 April 12, 2011, who Dr. Fersh was?

13 A. I only know what you have
14 discussed with me right now.

15 Q. Well, listen to my question. As
16 of April 12, 2011, did you know who
17 Dr. Fersh was?

18 A. Yes.

19 Q. You knew her to be a psychiatrist,
20 right?

21 A. She was a physician that Dr. Figur
22 had referred her to.

23 Q. But did you know her area of
24 expertise?

25 A. I don't recall specifically.

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1 PATRICK LENTO, M.D.

2 Q. Let me show you what was
3 previously marked as Cardo 10. I'm not
4 going to ask you to read all these meeting
5 minutes. My question only goes to number
6 7 on the first page. Tell me when you are
7 ready.

8 (Witness reviews document.)

9 Q. Resident meeting minutes for
10 June 7, 2011, indicates the residents were
11 being instructed that their pagers must be
12 on you at all times during the workday.
13 It states that if they fail to carry the
14 pager or respond to pagers throughout the
15 day, it would result in a letter of
16 reprimand. Were you aware of this
17 instruction given to your residents?

18 A. I think I was, yes.

19 Q. Did you request that that
20 instruction be given?

21 A. I do not believe that I made
22 this request, no.

23 Q. Do you know whether there were
24 any letters of reprimand placed in any
25 resident's file as a result of not

1 PATRICK LENTO, M.D.

2 carrying a pager or responding to pages?

A. Not that I'm aware.

4 Q. When did the period of academic
5 advisement end for Dr. Varughese?

6 A. The time period was, as
7 indicated in the advisement letter, I
8 believe it was a three-month period.

9 Q. Did you advise Dr. Varughese
10 that the academic advisement period had
11 concluded?

12 A. That the period of three months
13 had concluded. Correct.

14 Q. What was supposed to happen at
15 the end of three months?

16 A. Well, assuming that Leena had
17 completed the academic advisement, we
18 would meet and discuss how to proceed
19 further.

20 Q. Was the process ever described
21 to Dr. Varughese as to what was going to
22 happen at the conclusion of the academic
23 advisement period and thereafter?

24 | (Witness reviews documents.)

25 A. Yes. For one, we noted in the

1 PATRICK LENTO, M.D.

2 letter that "We will meet again in three
3 months to review your progress."

4 Q. Prior to meeting with
5 Dr. Varughese to review her progress, had
6 you been apprised of the fact that
7 Dr. Varughese had made an allegation to
8 human resources that she was the victim of
9 gender discrimination?

10 A. Not at that point, no.

11 Q. At what point did you become
12 aware of that?

13 A. I think it was maybe in April or
14 May.

15 Q. How did you become aware of it?

16 A. I don't recall who informed me.

17 Q. Do you know whether Caryn
18 Tiger-Paillex informed you?

19 A. I don't remember who informed
20 me.

21 Q. Did you receive notification at
22 the same time that she had alleged that
23 she was being retaliated against?

24 A. Did I receive a notification?

25 Q. Did you become aware of the fact

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1 PATRICK LENTO, M.D.

2 that she was alleging that she was being
3 retaliated against?

4 A. I don't remember that.

5 Q. Did Dr. Varughese prepare a
6 self-reflection?

7 A. She prepared two self-reflections.

8 Q. When was the first one submitted
9 to you?

10 A. End of March.

11 Q. I show you what was previously
12 marked as Defendant's Exhibit 21. Is
13 Defendant's Exhibit 21 the self-reflection
14 of the plaintiff?

15 A. I believe it is.

16 Q. What did you do upon receipt of
17 that notice of academic advisement? I'm
18 sorry. The self-reflection.

19 A. I read it.

20 Q. Did you forward it to anyone?

21 A. I don't recall.

22 Q. Did you forward it to Dr. Pessin?

23 A. I don't recall.

24 Q. Let me show you what was marked
25 as Pessin 15. I'll ask whether this

1 PATRICK LENTO, M.D.

2 refreshes your recollection as to whether
3 you forwarded it to Dr. Pessin.

4 (Witness reviews document.)

5 Q. Does this document refresh your
6 recollection as to whether you forwarded
7 the self-reflection of Dr. Varughese to
8 Dr. Pessin?

9 A. Obviously I did.

10 Q. Did you have any conversations
11 with Dr. Pessin about her viewpoint or her
12 views upon reading the self-reflection?

13 A. I don't recall having a
14 conversation with her.

15 Q. Did she ever express to you that
16 Dr. Varughese twisted all the events and
17 much is blatantly not true?

18 A. I don't recall that. And the
19 email that specifies that was not addressed
20 to me.

21 Q. Right. Did she ever express to
22 you that she felt that you, Dr. McCash and
23 herself were being harassed and slandered?

24 A. I don't recall that.

25 Q. Dr. Pessin asks Dr. Tiger-Paillex

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1 PATRICK LENTO, M.D.

2 what recourse is there now. Did you
3 discuss the issue of recourse with
4 Dr. Pessin?

5 A. I wasn't part of this conversation.

6 Q. I understand that. I'm asking
7 whether or not, separate and aside from
8 this email chain, did you have any
9 conversation with her about it?

10 A. I do not recall having a
11 conversation about recourse.

12 Q. When you read the self-reflection,
13 did you share in Dr. Pessin's beliefs that
14 Dr. Varughese had twisted all the events
15 and much is blatantly not true in the
16 self-reflection?

17 A. I didn't feel that the self --
18 sorry. Can you rephrase the question.

19 Q. I'm asking whether or not you
20 shared in Dr. Pessin-Minsley's belief that
21 Dr. Varughese had twisted all the events
22 and that much is blatantly not true in the
23 self-reflection.

24 A. I didn't believe that some of
25 the events as outlined may have been true.

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1 PATRICK LENTO, M.D.

2 Q. Did you believe that you were
3 being slandered by this document, being
4 the self-reflection?

5 A. I never said that.

6 Q. I'm asking you whether or not
7 you believed it.

8 A. I did not.

9 Q. Did you believe that there was
10 anything in this document that warranted
11 Dr. Varughese to be disciplined?

12 A. Based on the academic advisement?
13 No. Except that she did not fulfill the
14 criteria that we had outlined in the
15 academic advisement about what the letter
16 was supposed to consist of.

17 Q. Tell me how she did not fulfill
18 the criteria.

19 A. The letter was intended to be an
20 educational -- the self-reflection was
21 intended to be an educational exercise
22 whereby Dr. Varughese would outline, based
23 upon her reading of the book by Dr. Beeson
24 how she could have handled the situation
25 differently. And, if I recall correctly,

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1 PATRICK LENTO, M.D.

2 the letter seemed to just recount the
3 events as she saw them happen.

4 Q. Based on your understanding of
5 what occurred by investigating the matter,
6 how do you believe she could have handled
7 it differently?

8 A. I think that she could have
9 acted in a similar fashion to the way I
10 described Dr. McCash may have been able to
11 handle it, in a more discrete fashion.

12 And I believe that despite the
13 altercation, that she could have completed
14 her duties as a resident or at the very
15 least asked for help.

16 Q. How could she have asked for
17 help if she was being assailed for asking
18 for help with regard to grossing samples
19 or specimens?

20 MR. McEVOY: Objection to the
21 form. You can answer.

22 A. My understanding was that she
23 didn't ask for help with regard to the
24 specimens.

25 Q. Well, didn't she ask for help

1 PATRICK LENTO, M.D.

2 from the moonlighters that were there?

3 A. You would have to ask the
4 moonlighter if she asked for help. The
5 point was that after the incident, she
6 should have asked for help in completing
7 her duties.

8 Q. Wasn't it in fact the case that
9 on that particular day, Dr. Azar came on
10 to moonlight and found that there wasn't
11 much for him to do and asked Dr. Varughese
12 for samples to work on? I'm saying
13 samples. I mean specimens.

14 A. That's okay. I don't have
15 evidence of that. You would have to ask
16 Dr. Azar if he did that.

17 Q. Did you interview Dr. Azar?

18 A. I did.

19 Q. Did he indicate to you what the
20 workload was that day for him?

21 A. I don't recall him indicating
22 that, no.

23 Q. Given the fact that Dr. Azar was
24 there, did you consider that in terms of
25 your analysis as to whether it was

1 PATRICK LENTO, M.D.

2 inappropriate for Dr. Varughese to give
3 him some work, since he was available?

4 MR. McEVOY: Objection to the
5 form. It's been asked and answered a
6 whole bunch of time. He can answer one
7 more time.

8 MR. WRONKO: Not with regard to
9 Dr. Azar.

10 Q. You can answer.

11 A. The point of the moonlighter
12 wasn't to do the work of the resident.
13 The point of the moonlighter was to assist
14 or aid in the work being done within the
15 gross room.

16 Q. So in that case, should Dr. Azar
17 have gone home?

18 A. If there was no work for him to
19 do?

20 Q. Right.

21 A. If there was no work for him to
22 do, then perhaps yes.

23 Q. Did you meet with anyone prior
24 to meeting with Dr. Varughese about her
25 self-assessment?

1 PATRICK LENTO, M.D.

2 A. I don't recall any meeting.

3 Q. Did you meet with Carlos
4 Cordon-Cardo with regard to the situation
5 with Dr. Varughese?

6 A. I don't recall meeting.

7 Q. Did you take any steps to advise
8 Dr. Cordon-Cardo about what was going on
9 in terms of the academic advisement?

10 MR. McEVOY: At any particular
11 point in time?

12 Q. Prior to the May 4, 2010,
13 meeting.

14 MR. McEVOY: What May 4, 2010,
15 meeting? You haven't asked him anything
16 about a May 4, 2010, meeting.

17 Q. Did you ultimately meet with
18 Dr. Varughese on May 4, 2010?

19 A. No, sir. It was 2011.

20 Q. Did you meet with Dr. Varughese
21 on May 4, 2011?

22 A. Yes, I did.

23 Q. So prior to that May 4, 2011,
24 meeting, had you had any meetings with
25 Dr. Cordon-Cardo with regard to the

1 PATRICK LENTO, M.D.

2 situation with Dr. Varughese?

3 A. I don't recall.

4 Q. Do you know whether there was
5 anyone else who took the laboring oar in
6 terms of bringing Dr. Cordon-Cardo up to
7 speed on what was going on with
8 Dr. Varughese?

9 A. Under the circumstances of the
10 transition from Dr. Pessin, who is the
11 interim chair, to the new chair, that
12 would have been the responsibility of the
13 interim chair.

14 Q. Were you present for any of the
15 meeting between Dr. Pessin and Dr. Cordon-
16 Cardo?

17 A. I don't believe so, no.

18 Q. Do you have any knowledge as to
19 whether or not she expressed the views
20 that she had indicated in Pessin 15 to
21 Dr. Cordon-Cardo?

22 A. I have no idea.

23 Q. Tell me what happened on May 4,
24 2011.

25 A. So that was a follow-up meeting

1 PATRICK LENTO, M.D.
2 in Dr. Cordon-Cardo's office between
3 Dr. Varughese, myself, Dr. Cordon-Cardo
4 and Mr. Castaldi, the new departmental
5 administrator.

6 Q. When Dr. Varughese had been
7 given the notice of academic advisement,
8 it was just you and Dr. Pessin; is that
9 correct?

10 A. That's correct.

11 Q. Why is it that Mr. Castaldi was
12 then part of this meeting?

13 A. Dr. Cordon-Cardo had asked for
14 his presence.

15 Q. Did he explain to you why he had
16 asked for Mr. Castaldi to be there?

17 A. I do not believe so.

18 Q. Did you invite Dr. Cordon-Cardo
19 to be a part of this meeting?

20 A. I don't believe I was the one
21 who set up the meeting.

22 Q. Who was the person who set up
23 the meeting?

24 A. I believe it was Dr. Cordon-Cardo.

25 Q. Do you recall any of your

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1 PATRICK LENTO, M.D.

2 communications with Dr. Cordon-Cardo prior
3 to or leading up to this meeting being set
4 up?

5 A. No, sir.

6 Q. What happened prior to the
7 meeting? Did anything happen prior to the
8 meeting on that day, May 4, 2011?

9 MR. McEVOY: Did anything happen
10 about what?

11 MR. WRONKO: Fair enough.

12 Q. Did Dr. Varughese arrive early
13 to the meeting?

14 A. That I don't recall.

15 Q. Do you know whether she was ever
16 criticized for arriving early to the
17 meeting?

18 A. I don't recall that.

19 Q. Did she interrupt any very
20 important meeting that was taking place by
21 arriving early?

22 A. I don't recall.

23 Q. How about on May 24, 2011, at
24 the follow-up meeting? Had she arrived
25 early and interrupted any type of a

1 PATRICK LENTO, M.D.

2 meeting?

3 A. Not that I recall.

4 Q. Tell me what happened at the
5 May 4, 2011, meeting with Dr. Varughese.

6 A. I actually asked Dr. Varughese
7 if she had read the book. I indicated
8 that her academic advisement reflection
9 essay didn't meet the standard that we had
10 expected, based upon our discussions and
11 what was indicated in the academic
12 advisement.

13 Dr. Varughese told me she had
14 read the book. So I asked her to give me
15 some information about what she may have
16 read. And she said it was about
17 professionalism, which to me was pretty
18 obvious. Didn't expound much on that. So
19 like you did not too long ago, asked her
20 the author of the book, and she was unable
21 to give the name. So it was apparent that
22 she hadn't read the book.

23 Interestingly, Dr. Cordon-Cardo
24 at that point nicely said, "Listen," this
25 was to Dr. Varughese, that he was new to

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1 PATRICK LENTO, M.D.

2 the department and it was obvious that she
3 hadn't read the book. But, given the
4 circumstances and their new relationship,
5 he was willing to allow her some
6 additional time to work on a more
7 appropriate reflection essay, and in a
8 sense offered her an olive branch, you
9 know, to proceed.

10 Q. Were you concerned, as you were
11 during your February meeting, that the
12 meeting would appear threatening to
13 Dr. Varughese by having three people there
14 at the meeting?

15 A. No, I didn't think about it
16 being threatening.

17 Q. At the very beginning of the
18 meeting, had you begun by in essence
19 cross-examining Dr. Varughese about her
20 self-reflection and whether or not she had
21 read the book?

22 MR. McEVOY: Objection to the
23 form. You can answer.

24 A. First we would have said hello
25 to Leena. So we wouldn't have started off

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1 PATRICK LENTO, M.D.

2 just by engaging in questions.

3 Q. But after the pleasantries,
4 isn't it fair to say that you immediately
5 began engaging in questions?

6 A. Right. So the purpose of the
7 meeting was to follow up, as was outlined
8 in the academic advisement. Based on, as
9 I mentioned, the academic advisement, we
10 discussed it.

11 Q. Was it really a discussion or
12 you asking her questions and trying to pin
13 her down to establish that she had not
14 done what you wanted with regard to the
15 self-reflection and had not read the book?

16 MR. McEVOY: Objection to the
17 form. You can answer.

18 A. I had indicated to Dr. Varughese
19 that I didn't think the academic
20 advisement had met the criteria that we
21 had outlined and discussed regarding
22 academic advisement.

23 Q. Had you thought that it was
24 unprofessional for Dr. Varughese to have
25 made allegations that she was the victim

1 PATRICK LENTO, M.D.

2 of gender discrimination?

3 A. Inappropriate? No.

4 Q. Unprofessional?

5 A. Why would that be unprofessional?

6 MR. McEVOY: No, you are being
7 asked the question.

8 A. No.

9 Q. Following the meeting, were you
10 made aware by Dr. Cordon-Cardo that
11 Dr. Varughese had reiterated her complaint
12 that she was the victim of gender
13 discrimination and retaliation?

14 A. I don't recall that.

15 Q. When you first became aware that
16 Dr. Varughese had made the allegation of
17 gender discrimination, did you do anything
18 to institute an investigation into that
19 particular allegation or to follow up with
20 anyone?

21 A. That would not have been my
22 responsibility.

23 Q. Why wouldn't it have been your
24 responsibility upon learning that, to
25 ensure that Mount Sinai's anti-discrimination

1 PATRICK LENTO, M.D.

2 policy procedures were followed?

3 A. I believe that would be the
4 responsibility of whomever Dr. Varughese
5 spoke about it. I believe it was human
6 resources.

7 Q. Is it your testimony that when
8 you found out, you knew that human
9 resources had already been apprised of
10 that particular allegation?

11 A. Well, this meeting was in May.
12 I believe, based on our prior
13 conversation, that I was under the
14 understanding of an allegation sometime in
15 April.

16 Q. Did Dr. Cordon-Cardo advise you
17 that Dr. Varughese had reiterated that
18 allegation following the May 4th meeting?

19 A. I don't recall that.

20 Q. Did you believe that Dr. Varughese
21 should have been further disciplined or
22 terminated following the May 4th meeting?

23 A. Dr. Cordon-Cardo decided that
24 she would not be; that she would be given
25 the opportunity to --

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1 PATRICK LENTO, M.D.

2 Q. Right. I understand that
3 Dr. Cordon-Cardo made that decision. But
4 what I'm asking you is whether or not you
5 believe as the program director that
6 Dr. Varughese should have been further
7 disciplined and/or terminated as a result
8 of the issues that you brought to her
9 attention at that May 4th meeting.

10 A. Should have been implies a
11 decision already made. At that point, we
12 hadn't or I had not made a decision about
13 what to do.

14 Q. Now, between that first meeting
15 and the second meeting, had you received
16 any reports about any incidents involving
17 Dr. Varughese in the performance of her
18 job responsibilities or anything about
19 poor performance?

20 MR. McEVOY: That's between May
21 4 and May 24?

22 MR. WRONKO: Correct.

23 A. I don't recall.

24 Q. Had anyone during that time --
25 had you spoken with anyone during that

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1 PATRICK LENTO, M.D.

2 time period in the residency program to
3 tell them to keep tabs on Dr. Varughese to
4 see whether or not she was making mistakes
5 anywhere?

6 A. Tabs? No, I don't recall doing
7 that.

8 Q. Okay. So tell me what happened
9 at the May 24th meeting.

10 A. So again, Dr. Cordon-Cardo
11 arranged for a meeting on May 24th based
12 on the outcome of the May 4th meeting.
13 The expectation was that Leena would
14 provide us with a reworking of her
15 reflection essay. I believe Dr. Cordon-Cardo
16 had indicated to Leena that, you know, she
17 needed to provide it within a certain
18 period of time so that we could review it
19 in advance of the meeting so we could have
20 a meaningful discussion.

21 And at the meeting, which was
22 relatively brief, it was essentially run
23 by Dr. Cordon-Cardo, who noted that
24 Dr. Varughese's academic advisement did
25 not come in within the time period he had

1 PATRICK LENTO, M.D.

2 requested. If I recall correctly, she
3 submitted it perhaps that morning or at
4 the meeting. So he didn't really have a
5 chance to go over it.

6 He did ask her if she had read
7 the book, which apparently she had maybe
8 on her lap. And at that point she kind of
9 threw it up on the table and said "What?
10 This book?"

11 Q. Anything else?

12 A. Well, it was at that point that
13 Dr. Cordon-Cardo was upset. And he
14 basically ended the meeting. He told
15 Dr. Varughese that she had to leave.

16 Q. So had you reviewed -- I think
17 you had indicated you had not reviewed the
18 amendment to the second reflection prior
19 to that meeting.

20 A. Right. I think we may have
21 looked at it during the meeting, but I'm
22 not 100 percent sure.

23 Q. Did there come a point when you
24 read the second reflection?

25 A. Yes.

1 PATRICK LENTO, M.D.

2 Q. When did you read it?

3 A. That I don't recall.

4 Q. At the meeting with regard to
5 the second reflection, did Dr. Varughese
6 raise the issue that she was being
7 retaliated against?

8 A. I don't recall that being
9 raised.

10 Q. Did Dr. Cordon-Cardo at that
11 second meeting say to Dr. Varughese that
12 she should stop making complaints about
13 members of the residency program drinking
14 on the premises?

15 A. I don't recall that, no.

16 Q. Did Dr. Varughese say to
17 Dr. Cordon-Cardo that that's a very
18 important issue, to which Dr. Cordon-Cardo
19 then withdrew his instruction to her that
20 she should stop complaining about it?

21 A. I don't recall the question. So
22 there is no way I would recall the
23 follow-up answer.

24 Q. Had you at all been aware of the
25 fact that there were meetings called

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1 PATRICK LENTO, M.D.

2 dementia rounds where residents were
3 meeting on hospital premises to drink
4 alcohol?

5 A. No, sir.

6 Q. Do you know whether or not any
7 resident had taken a break from grossing
8 in order to ingest alcohol?

9 A. I was not aware of that.

10 Q. Were you aware of the fact that
11 earlier in May there was a directive sent
12 out by Dr. Jordan that, in fact it was on
13 May 4th, that alcohol was no longer
14 allowed on hospital grounds?

15 A. I don't recall that.

16 Q. Were you involved in that
17 decision to have alcohol removed from the
18 hospital premises? Drinking alcohol that
19 is. Not rubbing alcohol.

20 A. I understand. Removed. I don't
21 recall being involved in the decision to
22 remove alcohol.

23 Q. Let me rephrase. In terms of
24 residents drinking on the premises, were
25 you at all involved in the decision in

1 PATRICK LENTO, M.D.

2 order to have residents stop drinking on
3 the premises?

4 A. I became aware of the
5 allegation. And I let the chief residents
6 know that, of course, that could not
7 happen.

8 Q. How did you become aware of the
9 allegation with regard to the residents
10 drinking on the premises?

11 A. Somebody informed me.

12 Q. Let me show you what has been
13 marked as Defendant's Exhibit 26. Do you
14 remember this document to be the second
15 reflection that Dr. Varughese had
16 submitted?

A. It does appear to be so.

18 Q. In this amendment to her initial
19 reflection, Dr. Varughese raises the issue
20 that she was being treated differently
21 based on her gender. Does she not?

22 A. Can you tell me which line that
23 is?

24 | (Witness reviews document.)

25 | O. I'll withdraw that question.

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2 Let me ask you a different question.

3 During the period of time of May
4 2011, was Samuel McCash working at the
5 same time at the VA as Dr. Varughese?

6 A. I don't know.

7 Q. Do you know whether there was
8 any effort to ensure that the two of them
9 would not be working together?

10 A. I don't know if this is the
11 particular month. But I did speak to Sam
12 during a rotation when he was going to be
13 in the same hospital as Dr. Varughese,
14 yes.

15 Q. Now, in the third paragraph, it
16 states here "After the issuance of
17 academic advisement, I also chose to take
18 a stand to defend myself by filing an
19 official complaint."

20 Did you know what Dr. Varughese
21 was referring to there by way of the
22 official complaint?

23 A. I assume that was referring to
24 her complaint to human resources.

25 Q. Did you have any concerns about

1 PATRICK LENTO, M.D.

2 her in the remainder of that paragraph
3 raising the issue of residents drinking
4 alcohol, specifically Dr. Jordan and
5 Dr. McCash?

6 A. Well, my concern was that this
7 was irrelevant to the reflection essay, as
8 outlined in the academic advisement and
9 based on our discussions. This was
10 irrelevant to what was expected of the
11 reflection essay.

12 Was I concerned about this
13 specific thing? Of course.

14 Q. How about in the next paragraph
15 where Dr. Varughese says that she
16 perceived this as being discrimination,
17 the fact of what Dr. McCash had done? Had
18 done meaning verbal punishment and
19 harassment by Dr. McCash of her.

20 A. I didn't personally believe that
21 to be the case. But that would be up to
22 HR to determine, based on their
23 investigation.

24 Q. Had you communicated with HR
25 after reading this second reflection to

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1 PATRICK LENTO, M.D.

2 advise HR that Dr. Varughese raised the
3 issue of discrimination in her second
4 self-reflection?

5 A. I don't recall doing that.

6 Q. How about with regard to her
7 allegation later in that paragraph that
8 she wished for all retaliatory actions
9 against her to come to an end?

10 A. I don't recall communicating
11 that to human resources.

12 Q. Did you believe at the conclusion
13 of that second meeting on May 24th that
14 Dr. Varughese needed to be terminated as
15 of May 24th?

16 A. That was a distinct possibility.
17 She could have been, I think.

18 Q. Did you discuss that with anyone?

19 A. No, not at that time. No.

20 Q. Was that a feeling that you held
21 on May 24th or is that a feeling you hold
22 looking back in retrospect?

23 A. No. In fact, from the May 24th
24 meeting onward, in fact, Dr. Cordon-Cardo
25 had specifically asked me to, in a sense,

1 PATRICK LENTO, M.D.

2 remove myself from the situation with
3 Dr. Varughese, so that he could, as he had
4 stated previously, try to work with her on
5 improving and subsequently assigned her to
6 Dr. Firpo.

7 Q. But was anybody working with
8 Dr. Varughese in the time period between
9 May 24th and when Dr. Firpo eventually
10 started working with her in August 2011?

11 A. In what way?

12 Q. Was anybody communicating with
13 her during that time period?

14 A. That I can't answer. I don't
15 know the answer.

16 Q. Did Dr. Cordon-Cardo and you
17 discuss you removing yourself?

18 A. He asked me.

19 Q. Did he feel that you were too
20 close to the situation?

21 A. It was not my impression that
22 that is what he felt, no.

23 Q. Had you expressed any anger
24 about Dr. Varughese to Dr. Cordon-Cardo
25 where he felt that you shouldn't have

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1 PATRICK LENTO, M.D.

2 interaction with her?

3 A. Not at all. I think it was his
4 putting out a hand to Dr. Varughese in an
5 attempt to allow her to continue in the
6 residency program.

7 Q. In terms of putting a hand out
8 to Dr. Varughese, did you have any
9 understanding as to why Dr. Cordon-Cardo
10 felt it was necessary for you as the
11 program director to in essence step aside
12 from the situation?

13 A. That would be something
14 Dr. Cordon-Cardo would have to answer.

15 Q. On May 24th, did you have any
16 communications with Elizabeth Morency?

17 A. Not that I recall.

18 Q. Did you have any communications
19 after May 24th or on May 24th forward --
20 let me try that again.

21 Did you have any communications
22 with anyone on May 24th forward,
23 instructing them to keep you or the
24 department advised about any missteps that
25 Dr. Varughese had moving forward?

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2 A. I don't recall.

3 Q. Do you know whether it be you or
4 anybody else in the department put out in
5 essence that request that the staff of the
6 department keep an eye out for issues with
7 Dr. Varughese?

8 A. I don't recall.

9 Q. Did you have that type of
10 communication with Elizabeth Morency?

11 MR. McEVOY: Asked and answered.
12 You can answer one more time.

13 A. I don't recall.

14 Q. Did you have that type of a
15 communication with Dr. Najfeld?

16 A. No, sir.

17 Q. Let me show you what was marked
18 as Cardo 14. I'll give you a moment to
19 review that.

20 (Witness reviews document.)

21 Q. Do you recall receiving the
22 email that is marked as Cardo Exhibit 14?

23 A. My name is on the email.

24 Q. Does that mean that you don't
25 have any recollection sitting here today?

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1 PATRICK LENTO, M.D.

2 A. I don't recall receiving this
3 email.

4 Q. Okay. Do you recall conducting
5 any form of investigation with regard to
6 it?

7 A. Yes.

8 Q. What did you do to investigate
9 it?

10 A. So this appears to be the same
11 day of the meeting with Dr. Cordon-Cardo.
12 Leena was on a service. The GYN service,
13 the gynecology pathology service. And she
14 basically left without completing her
15 duties for that particular day.

16 Q. But was it your understanding
17 that Dr. Morency was referring to an
18 incident that had occurred on May 24th or
19 on some prior date?

20 A. I don't recall. I would be
21 speculating, I think.

22 Q. So Dr. Morency writes about
23 ongoing problems with Dr. Varughese and
24 then makes reference to her having gotten
25 into arguments with both Bassel and Roma

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1 PATRICK LENTO, M.D.

2 about helping her grow specimens. Did you
3 ever determine any specific dates that
4 were being referenced here by Dr. Morency?

5 A. No, sir.

6 Q. Was it merely coincidental that
7 on the evening of the meeting on May 24
8 that Dr. Morency would suddenly bring this
9 ongoing problem to the forefront?

10 MR. McEVOY: Objection to the
11 form. You can answer.

12 A. I think you would have to ask
13 Dr. Morency that question.

14 Q. Do you know whether anyone who
15 was at the May 24th meeting, of course
16 excluding the plaintiff, had solicited
17 this account from Dr. Morency?

18 A. Not that I recall, no.

19 MR. McEVOY: When you get a
20 chance, can we take a break?

21 MR. WRONKO: Let's take it now.

22 (Plaintiff's Exhibits 4 and 5
23 marked for identification.)

24 (Recess: 4:05 to 4:13 p.m.)

25 BY MR. WRONKO:

1 | PATRICK LENTO, M.D.

2 Q. Prior to May 24th, had Caryn
3 Tiger-Paillex been involved in any
4 decisions as to handle Dr. Varughese?

5 A. I don't recall.

Q. Did there come a point when Caryn Tiger-Paillex became involved in terms of investigating any issue involving Dr. Varughese? Let me rephrase that.

10 Did there come a point when
11 Caryn Tiger-Paillex became involved in
12 investigating any work performance issues
13 alleged by the department?

14 A. I don't know.

15 Q. Let me show you what has been
16 marked as Lento Exhibit 4. I'll give you
17 a moment to review that.

18 (Witness reviews document.)

19 Q. Do you recall sending this
20 email, dated June 2nd, 2011?

21 A. I don't.

22 Q. Do you know, sitting here today,
23 why you had included Caryn Tiger-Paillex
24 on this email?

25 A. I do not recall.

1 PATRICK LENTO, M.D.

2 Q. Is it true that prior to June 2,
3 2011, Caryn Tiger-Paillex's only
4 involvement was to investigate allegations
5 that Dr. Varughese had made?

6 A. Can you repeat that, please.

7 (The question was read.)

A. I believe that may be true, yes.

9 Q. Did you believe that her role
10 was now changing as of June 2, 2011, to
11 now investigate performance issues with
12 Dr. Varughese?

13 A. I don't recall the email. So I
14 don't recall the circumstances that it
15 relates to.

16 Q. Were there any meetings with
17 Caryn Tiger-Paillex between May 24th and
18 June 2, 2011, between you and Caryn
19 Tiger-Paillex?

A. Not that I'm aware of or recall.

21 Q. Were you referring Dr. Varughese
22 to human resources because of this issue
23 involving the PA, chief resident and the
24 members of the GYN staff?

A. Well, obviously she was included.

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2 on the email.

3 Q. But sitting here today, you
4 don't know why?

5 A. I don't recall, no.

6 Q. What other involvement besides
7 this email chain did you have, if any, in
8 terms of investigating this incident?

9 A. When you refer to this incident?

10 Q. The Morency complaint.

11 A. I did speak with Dr. Kalir, who
12 was the chief of the GYN service.

13 Q. What did Dr. Kalir tell you?

14 A. From what I recall, and I don't
15 remember when this meeting, discussion
16 took place, Dr. Kalir indicated that there
17 were some issues with Dr. Varughese on the
18 service.

19 Q. What were the issues that
20 Dr. Kalir identified?

21 A. I believe there were grossing
22 issues.

23 Q. Was she any more specific about
24 what those issues were?

25 A. Well, for one, as we discussed

1 PATRICK LENTO, M.D.

2 previously, Dr. Varughese just left the
3 service. Dr. Kalir had to find someone
4 else to complete Dr. Varughese's duties.
5 And from what I recall, there were other
6 issues regarding the turnaround time of
7 the evaluation of specimens.

8 Q. Do you know whether or not those
9 problems were unique to Dr. Varughese or
10 whether or not that was a common problem
11 on that service?

12 A. The discussion did not entail
13 other residents.

14 Q. But I'm not asking whether the
15 discussion entailed other residents. I'm
16 asking as to your knowledge as to whether
17 other residents who had grossing
18 responsibilities had done similar things.

19 A. I'm not aware of a resident who
20 left during the day and had others
21 complete their responsibilities while on
22 the GYN service.

23 Q. Let me show you what has been
24 marked as Lento Exhibit 5. I'll give you
25 a moment to review this.

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2 (Witness reviews document.)

3 Q. Do you recognize this chart?

4 A. No.

5 Q. On this chart, there is an
6 indication that on the 16th of this
7 particular month involving period ten
8 moonlighting that there were several small
9 and large specimens left. And it says "No
10 Bassel." Do you know whether or not
11 Adrienne Jordan had ever left several
12 small and large specimens incomplete?

13 A. No.

14 Q. How about looking at this chart
15 at the bottom row. It has the number 7.
16 It says "Adrienne Jordan three hours." I
17 would assume that means three hours of
18 moonlighting. It says "Specimens left
19 several large." Do you know whether or
20 not Dr. Jordan had left several specimens
21 incomplete?

22 A. I'm not aware of that fact. I'm
23 also not aware that this refers specifically
24 to Dr. Jordan.

25 Q. Let me show you what was

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2 previously marked as Cardo Exhibit 22.

3 I'll give you a moment to review that.

4 (Witness reviews document.)

5 Q. Did anyone ever advise you,
6 whether it be Dr. Grunes or anyone else,
7 that people were at each other's throats
8 in the gross room?

9 A. I don't recall being advised of
10 that.

11 Q. Did you have any knowledge to
12 believe that there were in fact arguments
13 or confrontations in the gross room?

14 A. No, sir.

15 Q. How about bickering in the gross
16 room? Were you ever advised of that?

17 A. I don't recall being advised of
18 bickering.

19 Q. With regard to this complaint by
20 Dr. Morency, what was the outcome of that
21 complaint? Did it result in any discipline
22 for Dr. Varughese?

23 A. No. I actually asked Dr. Kalir
24 to document what she was telling me
25 verbally. But she did not. There was no

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2 disciplinary action. However, at that
3 particular time, again, Dr. Cordon-Cardo
4 had asked me to step away from the
5 situation with Dr. Varughese.

6 Q. If that's, in fact, the case,
7 why did you involve yourself in terms of
8 reporting the incident as well as
9 partaking in the investigation?

10 A. I was still the program
11 director. And the emails that you are
12 referring to was on the day of the meeting
13 with Dr. Varughese.

14 Q. Was it at a later point that you
15 were no longer involved with Dr. Varughese?

16 A. That was a conversation that I
17 had with Dr. Kalir. And that was basically
18 it.

19 Q. What do you mean that was
20 basically it? That was the end of your
21 involvement with Dr. Varughese?

22 A. Direct involvement with
23 Dr. Varughese, yes.

24 Q. Okay. Who is Jaclyn Hechtman?

25 A. She was a resident.

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2 Q. Did you have any involvement in
3 terms of a discipline-related issue with
4 her in July 2011?

5 A. Dr. Hechtman was not disciplined.

6 Q. Was there any allegation that
7 she was refusing to wear protective gear,
8 as required by department policy, in the
9 gross room?

10 A. That may have been true.

11 Q. Was there any allegation about
12 Jaclyn Hechtman that she felt that
13 covering senior autopsy during the week or
14 grossing placentas was not part of her
15 job?

16 A. That may have also been true.

17 Q. Did she also have an attitude
18 that it was beneath her to track down
19 missing slides?

20 A. That I don't know.

21 Q. Were allegations made that she
22 was making frequent comments, such as "I'm
23 just not doing that"?

24 A. I don't recall that.

25 Q. Do you know whether or not

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2 Dr. Jordan wanted to give her a notice of
3 improvement?

4 A. I believe that she did want to
5 do that.

6 Q. I show you what has been marked
7 as Cardo Exhibit 7. Did you receive or
8 ever see these emails?

9 A. My name is on the top of one of
10 them.

11 Q. Sitting here today, do you
12 recall having received this email chain as
13 being forwarded by Mary Beasley?

14 A. I must have received it, yes.

15 Q. Was the notice of improvement
16 attached ever issued to Jaclyn Hechtman?

17 A. I do not believe so.

18 Q. Why not?

19 A. Because I believe that
20 Dr. Hechtman had not been spoken to as an
21 initial educational way of handling the
22 situation.

23 Q. Okay. And with regard to this
24 particular notice, do you know why
25 Dr. Jordan circulated it to her to give

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Dr. Hechtman an opportunity to revise it?

A. I would have no idea why. You would have to ask Dr. Jordan.

Q. I'd like to show you what has been marked as Cardo 21.

(Witness reviews document.)

Q. Do you recall receiving this email from Dr. Beasley?

A. I do not recall this email.

Q. Dr. Beasley, who is she?

A. Dr. Beasley is an attending in the department.

Q. In this email, Dr. Beasley states that Adrienne Jordan felt that Jaclyn Hechtman had already been given a verbal warning. Had you had any communications with Dr. Jordan about her feelings that a verbal warning had already been given to Jaclyn Hechtman?

A. No, I don't recall speaking with her.

Q. And that it was Jaclyn Hechtman's position that a verbal warning had not been given. Since the allegations were

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2 being made by Jaclyn Hechtman, why was
3 deference being given to Jaclyn Hechtman's
4 version over Adrienne Jordan?

5 MR. McEVOY: Objection to the
6 form of the question. You can answer.

7 A. I think this was a mediation by
8 the attending to handle the situation in a
9 verbal manner, much like we had discussed
10 in other incidents.

11 Q. Why was mediation appropriate in
12 this instance?

13 A. As I mentioned earlier, the
14 initial response to an infraction might be
15 a verbal communication to the resident in
16 an effort to educate the resident.

17 Q. But this went beyond just
18 communicating with Jaclyn Hechtman, to the
19 point of being mediated by the attending.
20 Was why was the mediation with the attending
21 appropriate?

22 A. I don't know. I don't know.

23 Q. At the end of this email,
24 Dr. Beasley writes "Thanks again for your
25 input. At least I haven't had to bail

1 PATRICK LENTO, M.D.

2 another resident out of jail. Still
3 haven't told you that story, have I? Did
4 you notice what the lottery prize money is
5 up to by chance?"

6 Did she ever tell you that story
7 about what happened with the resident who
8 she had to bail out of jail?

9 A. Not that I recall.

10 Q. Do you know that there was a
11 resident who had to be bailed out of jail?

12 A. Not that I'm aware of.

13 Q. Okay. Did there come a point
14 when Dr. Varughese retained legal counsel,
15 to your knowledge?

16 A. Yes.

17 Q. When did she retain legal counsel,
18 to your best recollection?

19 A. I don't know.

20 Q. Were you ever made aware that
21 her legal counsel had written a letter
22 alleging that there were violations of
23 Title VII of the Civil Rights Act that
24 were being committed?

25 A. I may have been.

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2 Q. Did Caryn Tiger-Paillex advise
3 you of that?

4 A. I do not know.

5 Q. Did you ever receive a copy of
6 the letter from Dr. Varughese's counsel?

A. That I don't recall.

8 Q. Let me show you what has been
9 marked as Cardo 15.

10 (Witness reviews document.)

11 Q. Did you ever see what has been
12 marked as Cardo Exhibit 15?

13 A. I believe I did, yes.

14 Q. When was the first time that you
15 saw this document?

16 A. I believe it was in the fall of
17 2011

18 Q. Had you been made aware of the
19 existence of this letter prior to the fall
20 of 2011?

A. I do not believe so, no.

22 Q. Were you advised that
23 Dr. Varughese had counsel prior to the
24 fall of 2011?

A. I don't recall that she had

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2 counsel.

3 Q. Was there any correlation
4 between the involvement of Caryn
5 Tiger-Paillex in this situation and
6 Dr. Varughese's retention of counsel in or
7 around June of 2011?

8 A. I have no idea.

9 Q. But as of June 10, 2011, is it
10 your testimony that you had removed
11 yourself in terms of dealing with
12 Dr. Varughese?

13 A. Yes.

14 Q. What are duty hour requirements
15 for residents?

16 A. That refers to resident tracking
17 of hours, hours worked.

18 Q. How would residents have to
19 track their hours worked?

20 A. Using a software system, a
21 computerized software system.

22 Q. What was the requirement in
23 terms of frequency of entering hours?

24 A. They needed to be in within the
25 time frame of a particular audit. That

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2 was the requirement.

3 Q. Do you know whether or not
4 Dr. Varughese at the end of June 2011 had
5 entered all of her duty hours?

6 A. I'm not sure.

7 Q. Were there any disciplinary
8 steps that would be associated with a
9 failure to enter duty hours in June 2011?

10 A. No, I don't believe it was
11 disciplinary.

12 Q. Let me show you what was marked
13 as Cardo Exhibit 16. I'll give you a
14 moment to review that.

15 | (Witness reviews document.)

16 O. All set?

17 A. Yes.

18 Q. Do you recall this email chain
19 marked as Cardo 16?

20 A. I do not.

21 Q. Okay. Do you know why
22 Dr. Cordon-Cardo -- strike that.

23 Turning to the second page,
24 Dr. Cordon-Cardo responds to Allene
25 Carter's email about Dr. Varughese no

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2 having entered her duty hours by saying
3 "Dear Sheema, I have discussed possible
4 termination with HR. I believe it's time
5 to make decisions. Can you share this
6 message with HR. Let's discuss tomorrow.
7 Thank you. Carlos."

8 First of all, who is Sheema
9 Patel?

10 A. Sheema was the new department
11 administrator.

12 Q. Did you know what her job
13 responsibilities were as the department
14 administrator?

15 A. I assume they were the same as
16 every other department administrator.

17 Q. Did she have job responsibilities
18 over discipline of residents?

19 A. I can't answer that.

20 Q. Were you part of any discussions
21 about a possible termination with HR of
22 Dr. Varughese?

23 A. No. At this point, I was not
24 involved in discussions. This was
25 Dr. Cordon-Cardo.

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2 Q. Okay. But then later on, on the
3 first page, you write to Caryn Tiger-Paillex
4 "I have a few saved general emails about
5 duty hours to the residents from Allene in
6 the past two or three months as well as a
7 specific one to her in June," her being
8 Dr. Varughese.

9 If you had removed yourself from
10 the situation, why were you participating
11 in this inquiry about duty hours?

12 A. This is obviously a response to
13 an inquiry from Ms. Tiger-Paillex.

14 Q. Were you attempting to support
15 your department chair in order to provide
16 additional evidence so that Dr. Varughese
17 could be terminated because of this?

18 A. I was providing information
19 responding to the inquiry by human
20 resources.

21 Q. Did you believe that this
22 particular offense, not entering duty
23 hours, was a proper basis to further
24 discipline Dr. Varughese up to and perhaps
25 including termination?

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2 A. As an isolated situation? No.

3 Q. Do you know whether or not this
4 problem was common to many other residents
5 in terms of getting their duty hours in?

6 A. I believe that there were, based
7 on my email, saying that sometimes they
8 require prodding, yes.

9 Q. If you would refer to Cardo
10 Exhibit 17, the email from Allene Carter
11 on June 21, 2011, in fact went to a large
12 number of residents, did it not, following
13 up on their obligation to enter all of
14 their duty hours?

15 MR. McEVOY: Objection to the
16 form. You can answer.

17 A. Yes.

18 Q. So do you think that Dr. Cordon-
19 Cardo was jumping the gun by trying to
20 take advantage of this particular issue
21 with regard to Dr. Varughese in order to
22 have her terminated?

23 MR. McEVOY: Objection to the
24 form of the question. Rephrase it or I
25 won't let him answer.

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2 MR. WRONKO: There is nothing
3 wrong with the question.

4 MR. McEVOY: Read the question
5 back, please.

6 MR. WRONKO: I'll rephrase.

7 Q. Do you believe that Dr. Cordon-
8 Cardo appropriately viewed this as --
9 strike that.

10 Do you think that Dr. Cordon-
11 Cardo was acting too quickly in terms of
12 suggesting that this was an offense for
13 which Dr. Varughese should be terminated?

14 MR. McEVOY: Objection to the
15 form. You can answer.

16 A. I think that requires me to
17 speculate about what he was thinking. And
18 I can't do that.

19 Q. Well, when you were supplying
20 information, did you have an understanding
21 from his earlier email, where he had
22 stated that he had discussed termination
23 and now was the time to make decisions,
24 that termination was certainly an option
25 at that point?

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2 A. It certainly may have been.

3 That was his decision.

4 Q. So as the program director, did
5 you think that that would have been an
6 appropriate decision, to terminate
7 Dr. Varughese for not entering duty hours?

8 MR. McEVOY: Objection. Asked
9 and answered. You can answer it one more
10 time.

11 A. As an isolated offense, entering
12 duty hours I don't believe is an offense
13 to be terminated.

14 Q. What about let's take it out of
15 isolation. At that particular moment
16 where Dr. Varughese stood with the
17 department, was it an offense that
18 warranted termination, put into the
19 context with Dr. Varughese?

20 MR. McEVOY: Are you asking
21 Dr. Lento whether he thought it was
22 appropriate or whether Dr. Cordon-Cardo
23 thought it was appropriate?

24 MR. WRONKO: Dr. Lento.

25 MR. McEVOY: Fine.

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2 A. I'm not sure that entering duty
3 hours is a terminable offense.

4 Q. Did you have any involvement
5 with preparing Dr. Varughese's final
6 written warning that was issued in July?

7 A. That was not prepared by me.

8 Q. Is that because you had removed
9 yourself from your dealings with
10 Dr. Varughese?

11 A. I was asked by Dr. Cordon-Cardo.
12 Yes.

13 MR. WRONKO: Let's mark this.

14 (Plaintiff's Lento Exhibit 6
15 marked for identification.)

16 Q. Dr. Lento, I'll give you a
17 moment to review that.

18 (Witness reviews document.)

19 Q. Do you recall this email that
20 you had sent to Paul Johnson, Carlos
21 Cordon-Cardo, Adolfo Firpo, with copies to
22 Marina Lowy, Caryn Tiger-Paillex and Scott
23 Barnett?

24 A. I do not recall this specific
25 exchange.

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2 Q. Does this email refresh your
3 recollection as to any involvement you had
4 with the preparation of the final written
5 warning that was issued to Dr. Varughese?

6 A. Yes. I provided some suggestions.

7 Q. And that's indicated in your
8 email by track changes?

A. It appears so, yes.

Q. Did you prepare a redlined version of the written warning?

12 A. Track changes.

13 MR. WRONKO: Let's mark this.

14 (Plaintiff's Lento Exhibit 7
15 marked for identification.)

16 Q. I'm showing you Lento 7. These
17 are various drafts of the final written
18 warning letter contained within this
19 exhibit. My question to you as you review
20 the exhibit is did you have involvement
21 with any of these various drafts?

22 (Witness reviews document.)

A. I can't tell by looking at them.

Q. Is it true the initial draft,
which appears on the first two pages, w

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2 written for your signature?

3 A. It appears to be true.

4 Q. Did you write this initial draft
5 contained on page 1 and 2 of the exhibit?

6 A. I did not.

7 Q. Do you know why it was written
8 for your signature?

9 A. I do not.

10 Q. Did you ever write an email to
11 Dr. Cordon-Cardo forwarding the written
12 warning for his signature because he had
13 directed to you that he wanted to do it
14 from an administrative standpoint?

15 A. Dr. Cordon-Cardo had indicated
16 that he wanted to deal with Dr. Varughese
17 and that I was not to be involved
18 directly.

19 Q. Was the reason why you weren't
20 to be involved directly an effort to make
21 it appear that you had nothing to do with
22 this and instead it was the new guy on the
23 block who was doing this?

24 MR. McEVOY: Objection to the
25 form. You can answer.

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2 A. That would be speculative based
3 on Dr. Cordon-Cardo. And I don't believe
4 that that was the case.

5 Q. Why is it that you would be
6 involved in the drafting of the final
7 written warning if you had removed
8 yourself from your involvement with
9 Dr. Varughese?

10 A. Obviously I was asked for my
11 suggestions.

12 Q. Did you have any involvement
13 with regard to giving the final written
14 warning to Dr. Varughese?

15 A. No, sir.

16 Q. Let me show you what was marked
17 as Cardo Exhibit 18.

18 | (Witness reviews document.)

19 | O. Do you recall this email, sir?

A. Only because I'm reading it.

21 Q. Okay. Was there an issue with
22 regard to the timing of when the final
23 written warning was going to be issued to
24 Dr. Varughese?

25 A. I'm not sure.

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2 Q. In the email that you had
3 written to Carlos Cordon-Cardo, you
4 indicated "Leena is scheduled to go on
5 vacation for two weeks beginning next
6 Monday, so we appear to have no choice but
7 to get it done this week. She is
8 currently at the VA and would have to come
9 here one morning before heading to the VA
10 or would have to come back to Sinai after
11 completing her duties at the VA (since she
12 could probably get here by 6 p.m.). I
13 have attached the letter draft which you
14 may edit as you like since you indicated
15 you wanted to do this from an
16 administrative standpoint."

17 Why was there a push to get the
18 final written warning to Dr. Varughese
19 before she went on vacation?

20 A. I think Dr. Cordon-Cardo would
21 have to answer that. I don't recall.

22 Q. Do you know whether or not the
23 attachment to this particular email, which
24 was a draft according to what you had
25 written, was any different from the

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2 redline changes that you had previously
3 circulated?

4 A. I don't know.

5 Q. How long did you work on the
6 draft?

7 A. I have no idea.

8 Q. How many different versions of
9 the draft did you yourself circulate?

10 A. I was asked to provide
11 suggestions. I don't recall circulating
12 the draft per se.

13 Q. Even with regard to Cardo 18
14 where you say "I have attached the letter
15 draft"? This doesn't refresh your
16 recollection to having done that?

17 A. Obviously I sent it to
18 Dr. Cordon-Cardo based upon a request from
19 him.

20 Q. Okay. But sitting here today,
21 I'm just asking whether you have any
22 specific recollection of that.

23 A. No, I don't.

24 Q. Okay. Were you involved in the
25 meeting when Dr. Varughese was given the

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2 | written warning?

3 MR. McEVOY: The final warning?

4 MR. WRONKO: The final written
5 warning. Thank you.

6 A. No, sir.

7 Q. Did anyone advise you what
8 occurred at the final written warning
9 meeting?

10 A. I don't recall being advised.

11 Q. Let me show you what has been
12 marked as Defendant's Exhibit 27.

13 | (Witness reviews document.)

14 Q. You have had a moment to review
15 what has been previously marked Defendant's
16 Exhibit 27?

17 A. Yes.

18 Q. Are you able to, in reviewing
19 this document, identify what information
20 you supplied for this document?

21 A. No, sir.

22 Q. Do you know whether or not you
23 had drafted the paragraph on page 2 that
24 begins "Dr. Carlos Cordon-Cardo, who was
25 appointed department chair" and it goes on

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1 PATRICK LENTO, M.D.

2 and on? Did you write that paragraph?

3 A. I don't believe so.

4 Q. Wouldn't you agree with me that
5 it's a little unusual that since
6 Dr. Cordon-Cardo had actually signed this
7 that he is referring to himself in the
8 third person in this letter?

9 A. Perhaps.

10 Q. Okay.

11 MR. WRONKO: Let's mark this.

12 (Plaintiff's Exhibit 8 marked
13 for identification.)

14 Q. I'm showing you what is Lento 8
15 which is a policy for resident misconduct
16 updated on July 6, 2011. I'll give you a
17 moment to review that. Tell me when you
18 are ready.

19 (Witness reviews document.)

20 Q. Have you ever seen this document
21 before?

22 A. I don't recall seeing it before.

23 Q. Were you involved in the
24 updating of this policy for resident
25 misconduct?

1 PATRICK LENTO, M.D.

2 A. I don't recall.

3 Q. Do you know where the final
4 written warning for Dr. Varughese fell in
5 terms of this policy for resident
6 misconduct? I see that there were
7 multiple warning steps. Do you have any
8 idea as to where it would fall on this
9 step or which step it would fall on?

10 A. I'm not sure that they are
11 related.

12 Q. Why would discipline of
13 Dr. Varughese be unrelated to the policy
14 of resident misconduct that was updated on
15 July 6, 2011?

16 A. I don't recall the policy
17 myself. And I don't know who issued this.

18 Q. Was it the case that this policy
19 applied to all residents except for the
20 plaintiff?

21 A. I don't believe that to be the
22 case.

23 Q. But sitting here today, you are
24 unable to identify where exactly the final
25 written warning falls within this

1 PATRICK LENTO, M.D.

2 particular disciplinary policy. Is that
3 fair to say?

4 A. I don't see where in this
5 particular policy.

6 Q. Who made the decision to place
7 Dr. Varughese on the final written
8 warning?

9 A. I believe that was Dr. Cordon-
10 Cardo and Dr. Firpo.

11 Q. Did you have any input in that
12 decision?

13 A. That decision was made by
14 Dr. Cordon-Cardo and Dr. Firpo.

15 Q. How was Dr. Firpo in a position
16 to make a decision about the final written
17 warning if he was just starting with the
18 institution in or around that time?

19 A. You would have to ask
20 Dr. Cordon-Cardo.

21 Q. How do you know that Dr. Firpo
22 was involved in making that decision?

23 A. Dr. Firpo became the director of
24 resident education upon his arrival. And
25 after the request for me to step away from

1 PATRICK LENTO, M.D.

2 Dr. Varughese's situation, Dr. Cordon-
3 Cardo assigned Dr. Firpo -- assigned
4 Dr. Varughese to Dr. Firpo.

5 Q. Did you have any role to play in
6 terms of bringing Dr. Firpo up to speed in
7 terms of the department's history with
8 Dr. Varughese?

9 A. I don't recall specifically
10 doing that.

11 Q. Were you involved in the ultimate
12 decision to terminate Dr. Varughese?

13 A. I did not make that decision.

14 Q. Who made that decision?

15 A. Dr. Cordon-Cardo.

16 Q. Did he make that decision all by
17 himself?

18 A. You would have to ask Dr. Cordon-
19 Cardo.

20 Q. Let me show you what was
21 previously marked as Cardo Exhibit 19.
22 I'll give you a moment to review that.
23 I'd like to bring your attention, feel
24 free to review the email chain, but I'd
25 like to bring your attention to the email

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1 PATRICK LENTO, M.D.
2 on the second page sent by Scott Barnett
3 on August 4, 2011, wherein he writes
4 "Stick with the plan. That should be able
5 to help with whether she will meet the
6 requirements. Scott."
7

8 I'm going to ask you about that
9 email in particular. But take your time
10 to review the document.

11 (Witness reviews document.)

12 Q. Were you party to any
13 conversations where a plan was put
14 together in terms of how to deal with
15 Dr. Varughese moving forward after the
16 final written warning?

17 A. I don't recall being included,
18 no.

19 Q. So when Dr. Barnett makes
20 reference to stick with the plan, you
21 don't know what the plan was?

22 A. I don't.

23 Q. At the first page of this email,
24 there is reference to you pulling or
25 having Allene Carter pull Dr. Varughese's
 file so you could have a meeting with

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1 PATRICK LENTO, M.D.

2 Dr. Firpo?

3 A. Yes.

4 Q. Do you recall having a meeting
5 with Dr. Firpo to review Dr. Varughese's
6 file?

7 A. I don't remember, no.

8 Q. Do you know whether there were
9 any issues with regard to the number of
10 autopsies Dr. Varughese had completed by
11 that point being a new PGY-4?

12 A. She was concerned that she
13 wouldn't fulfill the requirement.

14 Q. Did you feel at that time that
15 that was a legitimate concern?

16 A. Possible, yes.

17 Q. Why was it a legitimate concern?

18 A. I don't remember how many cases
19 she had. Let me see if I actually said
20 it.

21 (Witness reviews document.)

22 A. I don't see it listed here.

23 Q. Okay.

24 A. But obviously she had a concern.
25 So we would be concerned as well.

1 PATRICK LENTO, M.D.

2 Q. Did you take any steps to address
3 her concern?

4 A. Yes, I did.

5 Q. What steps did you take?

6 A. I believe I spoke with the
7 medical examiner's office to see if they
8 could help accommodate her. And they said
9 yes.

10 Q. How were they going to accommodate
11 her?

12 A. They were going to allow her to
13 achieve the number of autopsies that were
14 required to fulfill the requirement.

15 Q. Had she expressed any concerns
16 that autopsies that she had worked on she
17 had not received any credit for?

18 A. I don't recall that, no.

19 Q. Do you know whether or not she
20 received credit for all autopsies on which
21 she worked?

22 A. I would assume so, yes.

23 Q. Now, did you have any knowledge
24 or involvement with Dr. Varughese's
25 rotation in tumor cytogenetics?

1 PATRICK LENTO, M.D.

2 A. I had no involvement in that
3 rotation, no.

4 Q. Did you keep tabs as to how
5 Dr. Varughese was performing with
6 Dr. Najfeld in that rotation in August of
7 2011?

8 A. I don't recall doing so, no.

9 Q. Did you hear anything from
10 anyone about how she was performing in
11 that particular rotation?

12 MR. McEVOY: During the rotation?
13 After the rotation?

14 MR. WRONKO: During or after.

15 A. I believe yes. It was
16 subsequent to an incident involving Leena
17 on the cytogenetics rotation.

18 Q. Tell me what your knowledge is
19 with regard to that.

20 A. The chief residents had asked
21 Leena or tried to ask Leena to cover a
22 sick call, I believe it was. Apparently
23 they had tried to email or page her, and
24 they were unable to reach her. So I was
25 asked at some point to see if I could

1 PATRICK LENTO, M.D.

2 track her down.

3 Q. Did you track her down?

4 A. I did. I called the
5 cytogenetics lab. I spoke with
6 Dr. Najfeld. I asked if Dr. Varughese was
7 there. She said, "Yes, she is right
8 here." I said, "Can I speak with her?"

9 Q. Do you think that it was
10 inappropriate of Dr. Varughese not to have
11 gotten back to those people who were
12 looking for her?

13 A. Yes, sure.

14 Q. Do you know that Dr. Najfeld had
15 criticized Dr. Varughese for being on her
16 handheld during the course of that
17 rotation?

18 A. She may have.

19 Q. Do you know that Dr. Najfeld
20 gave her an express instruction not to be
21 on her electronics during that rotation?

22 A. I'm not aware.

23 Q. So if in fact Dr. Najfeld had
24 given her that instruction, why then would
25 she be criticized by giving Dr. Najfeld

1 PATRICK LENTO, M.D.

2 her undivided attention?

3 A. Because she was paged. So it
4 wasn't an email. If she was getting a
5 text on an email, perhaps one could argue
6 that she was forbidden. But she was paged
7 and she did not respond to her page or
8 pages.

9 Q. A page by who?

10 A. By the chief residents, it was
11 my understanding.

12 Q. But do you have personal knowledge
13 that she was in fact paged?

14 A. No. You would have to ask the
15 chief residents. But that's what they
16 indicated to me when they tried to track
17 her down.

18 Q. You had also indicated an email.
19 Was it an email? Was it a page? Was it
20 both?

21 A. It was both, yes.

22 Q. With regard to a page, would a
23 resident be expected to immediately
24 respond to a page if she is in the middle
25 of a rotation, especially with a

1 PATRICK LENTO, M.D.

2 Dr. Najfeld who seemed very concerned
3 about having Dr. Varughese's undivided
4 attention?

5 MR. McEVOY: Objection to the
6 form. You can answer.

7 A. I wasn't there. So I don't know
8 what Leena was doing -- Dr. Varughese, my
9 apologies -- at the time. So yes,
10 appropriate response to a page would be to
11 answer it.

12 Q. Isn't this in fact a case of the
13 department trying to have it both ways,
14 where they are criticizing Dr. Varughese
15 for not giving Dr. Najfeld undivided
16 attention, but then expecting her to drop
17 Dr. Najfeld immediately upon someone else
18 calling?

19 MR. McEVOY: Objection to the
20 form. You can answer.

21 A. I don't believe that's the case.
22 If you were to receive a phone call and
23 you needed to answer, you would say to
24 whoever is in the room "Excuse me. I'd
25 like to answer this" or "I need to answer

1 PATRICK LENTO, M.D.

2 this." I think that a similar approach
3 could have been taken by Dr. Varughese
4 under those circumstances.

5 Q. But at the risk that Dr. Najfeld
6 would have criticized her for being on her
7 handheld, right?

8 A. Not if she said to Dr. Najfeld
9 "I need to answer this page."

10 Q. Who is Julie Chepovetsky? Was
11 there ever a disciplinary issue with Julie
12 Chepovetsky?

13 MR. McEVOY: Objection to the
14 form. You can answer.

15 A. No.

16 Q. Did Julie Chepovetsky ever whine
17 about having to present a case twice?

18 A. She may have.

19 Q. Did Dr. Beasley ever express to
20 you that Julie Chepovetsky had fallen off
21 the wagon?

22 A. I don't recall that.

23 Q. Did she ever express to you that
24 Julie seemed overwhelmed?

25 A. Perhaps.

1 PATRICK LENTO, M.D.

2 Q. Did she ever express to you that
3 Julie was missing diagnoses?

4 A. Perhaps.

5 Q. Did she ever express to you that
6 Julie was having problems with differential
7 diagnoses?

8 A. Perhaps.

9 Q. I want to show you what was
10 marked as Cardo Exhibit 5. Does this
11 refresh your recollection as to a
12 situation with Julie Chepovetsky?

13 A. Yes.

14 Q. Do you know whether or not
15 Dr. Beasley passed her on this rotation
16 where she seemed overwhelmed and was
17 whining about everything and missing
18 diagnoses?

19 A. I do not know.

20 Q. Dr. Beasley also wrote "Plus her
21 last presentation at chest conference was
22 really subpar and she sounded like a
23 valley girl."

24 Given the fact that she gave an
25 obviously inadequate presentation, do you

1 PATRICK LENTO, M.D.

2 know whether any disciplinary action was
3 taken against her?

4 A. There was not.

5 Q. Was she given a second chance at
6 that presentation?

7 A. I have no idea.

8 Q. Here it says "Hopefully, she
9 will do a better job this time since she
10 has to do the case for CPC also."

11 A. You are referring to a different
12 conference.

13 Q. Okay. Was she given more bites
14 at the apple, so to speak, in terms of her
15 presentations?

16 MR. McEVOY: Objection to the
17 form. You can answer.

18 A. Not because she had had subpar
19 performance prior. No, that was not the
20 reason for this.

21 Q. Okay. But at the very beginning
22 of the email, it says Julie is whining
23 about having to present the case twice.

24 So do you know whether she
25 presented a case twice?

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2 A. No, I don't know.

3 Q. Was any action taken as to Julie
4 Chepovetsky after this email on May 26,
5 2011?

6 A. No, sir.

7 Q. Now, were you made aware in June
8 of 2011 that Julie Chepovetsky had 15
9 cases from the middle to end of May 2011
10 that had yet to be signed out?

A. I don't recall being aware, no.

12 Q. Let me show you what was marked
13 as Cardo Exhibit 4.

14 | (Witness reviews document.)

15 Q. Does this refresh your recollection
16 to the fact that Julie Chepovetsky had 15
17 cases from the middle to end of May that
18 have yet to be signed out as of June 10,
19 2011?

A. I see what it says, yes.

Q. Does it refresh your recollection?

22 A. No.

23 Q. Did you take any action against
24 Julie Chepovetsky?

25 A. No. This is not an actionable

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1 PATRICK LENTO, M.D.

2 offense.

3 Q. Subsequent to that in the next
4 month, do you know whether Julie
5 Chepovetsky had failed to respond to a
6 page of Dr. Jordan?

7 A. I don't recall.

8 Q. Do you know whether or not
9 Dr. Chepovetsky had failed to return a
10 telephone call with Dr. Jordan?

11 A. I don't know.

12 Q. Do you know whether or not she
13 had left a biopsy, a liver biopsy sitting
14 in the frozen room?

15 A. I don't recall.

16 Q. Do you know whether or not she
17 left chucks and other grossing tools
18 soaking in water?

19 A. I don't recall.

20 Q. Do you know whether or not she
21 left a cryostat blade sitting on top of a
22 cryostat, raising a safety concern?

23 A. I don't recall.

24 Q. Let me show you what was marked
25 as Cardo Exhibit 6. I'll give you a

1 PATRICK LENTO, M.D.

2 moment to review that.

3 (Witness reviews document.)

4 Q. Were you made aware of
5 Dr. Jordan's concerns with regard to
6 Dr. Chepovetsky?

7 A. I was cc'd on an email.

8 Q. Do you know whether or not
9 Dr. Chepovetsky was, in fact, disciplined
10 in any way as a result of this series of
11 items identified by Dr. Jordan on July 12,
12 2011?

13 A. No, I'm not aware.

14 Q. Did you ultimately prepare a
15 summative evaluation for Julie Chepovetsky
16 before you departed Mount Sinai Medical
17 Center?

18 A. No, sir.

19 Q. Who would have prepared the
20 summative evaluations for Julie Chepovetsky?

21 A. I believe that would have been
22 Dr. Firpo.

23 Q. Were summative evaluations
24 prepared for each year of a resident's
25 residency or would it be just for their

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1 PATRICK LENTO, M.D.

2 final, an overall summative evaluation?

3 A. It was the latter. So a
4 summative evaluation was at the end of a
5 residency.

6 Q. Do you know why Julie Chepovetsky
7 wasn't put on academic advisement?

8 MR. McEVOY: Objection to the
9 form.

10 A. Based on?

11 Q. Based on anything that occurred
12 in Cardo 5, Cardo 4 or Cardo 6.

13 A. Well, let's see. Whining or
14 complaining about something is not an
15 offense.

16 Q. Let's focus on each one. Cardo
17 Exhibit 5, we have a situation where she
18 was performing badly, would you agree, on
19 a rotation where she was missing diagnoses
20 and had delivered a subpar presentation,
21 right?

22 A. No. First of all, this is with
23 an isolated attending and an isolated
24 incident, where there appears to be a gap
25 in Julie's knowledge. That's not a

1 PATRICK LENTO, M.D.

2 disciplinary situation. That's another
3 educational opportunity. We all have gaps
4 in our knowledge.

5 Q. So are you telling me that the
6 inclusion of the issues that Dr. Varughese
7 had with Dr. Najfeld are somehow -- in the
8 letter of termination are in some way
9 different than this situation with
10 Dr. Beasley?

11 A. I'm not sure I understand the
12 comparison.

13 Q. Well, let me take a step back.
14 What is your understanding of why
15 Dr. Varughese was terminated in part
16 because of her performance on the
17 cytogenetics rotation with Dr. Najfeld?

18 A. That decision was made by
19 Dr. Cordon-Cardo, who would have to answer
20 directly.

21 Q. Do you have any knowledge as to
22 why that was included in the letter of
23 termination with regard to Dr. Varughese?

24 A. No, sir.

25 Q. Should it have been?

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1 PATRICK LENTO, M.D.

2 MR. McEVOY: Objection. You can
3 answer.

4 Q. If Dr. Najfeld had a problem
5 with Dr. Varughese's knowledge base, would
6 you agree, just like with Julie
7 Chepovetsky, that that's merely an
8 opportunity for Dr. Varughese to learn?

9 A. Again, you are comparing things
10 that I don't have complete knowledge of.

11 Q. Okay.

12 A. This is an isolated incident.

13 Q. So does it become less isolated
14 June, the next month, when Julie has 15
15 cases from middle to end of May that she
16 didn't sign out?

17 A. This is a reminder that is sent
18 out on a weekly basis to all the residents
19 and all the attendings in the department.
20 So while there is -- it looks like there
21 are two residents' names here, this would
22 just happen to be that particular week.
23 And the so-called delay is not necessarily
24 due to the resident.

25 Q. So if it wasn't due to the

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1 PATRICK LENTO, M.D.

2 resident, why would the residents be
3 followed up with regard to these cases?

4 A. Because the residents are
5 assigned to the cases so we can track them
6 and assure that appropriate patient care
7 is rendered.

8 Q. So then why was Dr. Jordan
9 actually naming names here if it wasn't
10 the fault of the resident?

11 MR. McEVOY: Objection to the
12 form. That's not what the witness said.
13 But you can answer.

14 A. She is just stating a fact.

15 Q. Well, is it a fact that she
16 states that "In my opinion, this
17 behavior," referring to the residents,
18 "and laissez-faire attitude is not only
19 irresponsible but potentially dangerous to
20 patients"?

21 MR. McEVOY: Are you asking is
22 that what it says?

23 MR. WRONKO: I'm asking if it's
24 a fact.

25 MR. McEVOY: If what is a fact?

1 PATRICK LENTO, M.D.

2 MR. WRONKO: Her expression that
3 this behavior and laissez-faire attitude
4 of the residents is not only irresponsible
5 but potentially dangerous to the patient.

6 MR. McEVOY: To the extent you
7 are asking him if that's what the document
8 says, fine. To the extent you are asking
9 if that's what Dr. Jordan meant or if
10 that's what Dr. Jordan said --

11 MR. WRONKO: I'm asking if it's
12 a fact.

13 MR. McEVOY: What?

14 MR. WRONKO: I just repeated and
15 I'll repeat again. That this behavior and
16 laissez-faire attitude of the residents is
17 not only irresponsible but potentially
18 dangerous to patients.

19 Q. You can answer.

20 MR. McEVOY: I didn't say he
21 couldn't answer the question.

22 MR. WRONKO: Are you instructing
23 him not to answer that question?

24 MR. McEVOY: I said I didn't say
25 he couldn't answer the question. Pay

1 PATRICK LENTO, M.D.

2 attention.

3 A. She indicates in the email that
4 it's her opinion.

5 Q. I want your opinion. Is it a
6 fact?

7 A. I don't know the circumstances
8 of the cases. So no, I can't comment.

9 Q. So certainly Dr. Jordan was
10 placing the blame on these two residents
11 as having laissez-faire attitudes, was she
12 not?

13 A. It appears so.

14 Q. Turning then to Cardo Exhibit 6,
15 does it stop being an isolated incident
16 when you then see the chief resident then
17 listing out all of these different
18 problems with Julie Chepovetsky, including
19 ignoring pages and calls and then having
20 all of these different issues, including
21 leaving a liver biopsy sitting in the
22 frozen room?

23 A. Well, as specified in your
24 referral to the liver biopsy, it was a
25 specimen not to be examined at that point.

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1 PATRICK LENTO, M.D.

2 So she just happened to leave it on the
3 counter, perhaps, instead of putting it
4 next to the counter. That's not an issue.

5 Q. You are downplaying that. Isn't
6 that a potential patient care issue, the
7 mishandling of specimens?

8 A. That's not a mishandling of a
9 specimen.

10 Q. Just leaving it so that someone
11 doesn't know what it's supposed to be --
12 what is supposed to be done with the
13 specimen?

14 A. I think you are reading into it.

15 Q. Then why is it that Dr. Jordan
16 wrote you cannot just leave the specimen
17 sitting on the counter in the frozen room?

18 A. You would have to ask Dr. Jordan.

19 Q. Did you follow up with
20 Dr. Jordan with regard to her concerns
21 here?

22 A. This was in July when Dr. Firpo
23 had basically taken over as the director
24 of the residency education.

25 Q. Is there a reason why you would

1 PATRICK LENTO, M.D.
2 have taken Dr. Jordan's words about the
3 handling of specimens and any concerns
4 relating thereto when it came to
5 Dr. Varughese. But when it comes to Julie
6 Chepovetsky, you are no longer taking her
7 words or her taking her concerns very
8 seriously?

9 MR. McEVOY: Objection to the
10 form. Completely mischaracterizes his
11 testimony.

12 MR. WRONKO: I don't think so.

13 A. Dr. Firpo responded to Dr. Jordan.

14 Q. Do you know whether or not
15 Dr. Chepovetsky ultimately suffered any
16 type of discipline, whether it be academic
17 adviseinent, whether it be written warning,
18 any type of discipline arising out of
19 this?

20 A. I'm not aware.

21 Q. Do you know whether or not Paul
22 Azar was missing his rotation on blood
23 bank for significant amounts of time in
24 August of 2011?

25 A. I believe that I was informed of

1 PATRICK LENTO, M.D.

2 the possibility and I investigated.

3 Q. What did your investigation turn
4 up, if anything?

5 A. I believe I communicated with
6 the director of the service, who indicated
7 that that was not the case.

8 Q. Now, back with Julie Chepovetsky.
9 At the time you had received that email,
10 were you still acting as the director of
11 the residency program?

12 A. I was the named program
13 director.

14 Q. But were you just holding that
15 name or had Dr. Firpo in essence
16 supplanted you in terms of your job
17 responsibilities?

18 A. Dr. Firpo had become the
19 director of pathology residency education.
20 It was at this time that I had accepted a
21 new position elsewhere.

22 Q. So for how long did you remain
23 with Mount Sinai after accepting a new
24 position?

25 A. Until December.

1 PATRICK LENTO, M.D.

2 Q. So what job responsibilities
3 upon that occurring did you maintain, as
4 opposed to giving up to Dr. Firpo?

5 A. I continued to oversee the
6 autopsy service and up until I believe it
7 was near the end of November, and the same
8 for the cardiovascular service.

9 Q. What about with regard to
10 administration over the program, the
11 residency program? Did you maintain any
12 responsibilities over that?

13 A. Yes. When asked to participate
14 in something, I did.

15 Q. But did you ever do any tasks
16 where you were not asked to participate
17 and you just did so out of your own
18 initiative?

19 A. I don't recall.

20 Q. Do you recall a situation in
21 September of 2011 where Dr. Jordan had
22 made allegations that she was concerned to
23 be at work because of Dr. Varughese and
24 feared for her safety?

25 A. I don't recall that.

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1 PATRICK LENTO, M.D.

2 MR. WRONKO: Let's mark this.

3 (Plaintiff's Lento Exhibit 9
4 marked for identification.)

5 Q. Dr. Lento, I'm showing you what
6 has been marked as Lento Exhibit 9. I'll
7 give you a moment to review that.

8 (Witness reviews document.)

9 Q. You have had a moment to review
10 that exhibit?

11 A. Mm-hmm.

12 Q. Did you ever review that
13 exhibit, that email chain, prior to today?

14 A. I don't specifically recall.

15 Q. Do you recall there being an
16 issue that Dr. Jordan had raised.

17 A. Yes. An attendance issue.

18 Q. More to the point, with regard
19 to the issue that she had raised with
20 regard to her own personal safety. Do you
21 recall that issue being raised?

22 A. Well, I'm cc'd. But she is
23 addressing her email to Dr. Firpo.

24 Q. Did you do anything with regard
25 to that particular issue?

1 PATRICK LENTO, M.D.

2 A. Not that I recall, no.

3 Q. Why would you not have done
4 anything with regard to that issue?

5 A. Dr. Firpo was the director of
6 the residency education. And her email
7 was directed specifically to him.

8 Q. Did you have any conversations
9 with Dr. Firpo about that situation?

10 A. Not that I recall, no.

11 Q. Did you have any communications
12 with Dr. Barnett's office?

13 A. Not that I recall, no.

14 MR. WRONKO: Let's mark this.

15 (Plaintiff's Lento Exhibit 10
16 marked for identification.)

17 Q. I'm showing you what has been
18 marked as Lento Exhibit 10. Do you recall
19 sending the email that is marked as Lento
20 Exhibit 10 to Dr. Firpo?

21 A. I don't recall sending this.

22 Q. Do you recall having any
23 conversations with Dr. Firpo about that
24 situation? Does this refresh your
25 recollection?

1 PATRICK LENTO, M.D.

2 A. No, sir, it does not.

3 Q. Does this refresh your
4 recollection of any communications with
5 Dr. Barnett?

6 A. No.

7 Q. Do you know why you would have
8 been sending this email to Dr. Firpo if
9 you had relinquished your responsibilities,
10 as you had described?

11 A. This is a suggestion. I don't
12 know if this is in response to a question
13 or not.

14 Q. Were you at all involved in the
15 update of a policy on July 27, 2011, for
16 morning conference attendance?

17 A. I don't recall.

18 Q. Do you know whether or not --
19 first of all, do you know what I'm
20 referring to by the update in terms of the
21 morning conference attendance requirement?

A. Not the details.

MR. WRONKO: Let's mark this.

24 | Plaintiff's Lento Exhibit 11

marked for identification.)

1 PATRICK LENTO, M.D.

2 Q. Do you recall ever seeing this
3 document before, dated July 27, 2011?

4 A. I don't recall.

5 Q. Does this document in any way
6 refresh your recollection as to a change
7 in policy with regard to morning conference
8 attendance?

9 A. Dr. Firpo, again, as the new
10 director of education, wanted to formalize
11 policy regarding attendance.

12 Q. Did he have to do that because
13 of the ACGME audit that had taken place?

14 A. I don't recall that being a
15 stipulation of the ACGME.

16 Q. The program was on probation at
17 this point?

18 A. No, it was not. We were never
19 put on probation.

20 Q. Are you sure about that?

21 A. We were not put on probation.

22 Q. Wasn't the program given
23 something like 14 different citations and
24 put on probation in 2011?

25 A. We were given citations. But

1 PATRICK LENTO, M.D.

2 that doesn't necessarily mean we were put
3 on probation.

4 Q. Okay.

5 A. Citations were responded to.

6 Q. Do you have any knowledge with
7 regard to residents who gave presentations
8 pursuant to this policy when they missed
9 the 80 percent threshold for attendance at
10 morning conferences?

11 A. I was not involved in tracking
12 this, no.

13 Q. Did you know whether or not a
14 resident by the name of Blouin missed a
15 presentation on August 25, 2011?

16 A. I don't know.

17 Q. How about Julie Chepovetsky
18 missing a presentation on August 1, 2011?

19 A. I'm not aware.

20 Q. How about Robert Guarino
21 canceling his presentation on
22 September 15, 2011. Are you aware of
23 that?

24 A. No.

25 Q. Did there come a point when

1 PATRICK LENTO, M.D.

2 Dr. Varughese in August 2011 had attempted
3 to change her elective rotation from GI to
4 dermopath?

5 A. I believe she did, yes. She
6 made a request.

7 Q. Who is Dr. Miriam Birge?

8 A. Miriam Birge is a dermpath
9 attending in the department.

10 Q. Do you know whether or not
11 Dr. Birge said it would be acceptable for
12 Dr. Varughese to switch into dermopath?

13 A. That certainly may have been the
14 case.

15 Q. Do you know whether or not
16 Dr. Varughese's request was denied?

17 A. Yes.

18 Q. Why was it denied?

19 A. The decision -- well, the
20 request was made to the chief residents,
21 who ultimately denied the request.

22 Q. Was it the chief residents who
23 denied it or was it Dr. Firpo who denied
24 it?

25 A. Well, initial requests generally

1 PATRICK LENTO, M.D.

2 would go to the chief resident. And if
3 there were a problem, it might have been
4 bumped up. But I don't know.

5 Q. What factors were considered in
6 terms of the request being denied?

7 MR. McEVOY: Dr. Varughese's
8 request or requests in general?

9 MR. WRONKO: Dr. Varughese's
10 request.

11 A. I think that if the chief
12 residents had denied it, then they
13 obviously would have had their rationale
14 for it.

15 Q. Did you know in August or
16 September of 2011 what their rationale
17 was?

18 A. Yes.

19 Q. What was their rationale?

20 A. Leena was assigned to a GI
21 rotation, a rotation she had specifically
22 requested. And now apparently she had
23 asked to be changed into a different
24 rotation, the dermpath rotation.

25 Q. Was that an issue for -- did you

1 PATRICK LENTO, M.D.
2 view that as being an issue for
3 Dr. Varughese where it would have
4 supported a termination of her from the
5 program?

6 A. Making a request? No.

7 Q. Was there anything with regard
8 to her request to be transferred from one
9 rotation to another that would have
10 supported a termination?

11 A. Not that I considered, no.

12 Q. Did you have communications
13 about Dr. Varughese requesting a leave of
14 absence?

15 A. I know that she had made a
16 request. I don't recall specific
17 communications.

18 Q. Do you know whether or not she
19 had made a request for a leave of absence
20 in September of 2011?

21 A. I was informed that she had made
22 a request.

23 Q. Who advised you?

24 A. I believe it was Dr. Firpo.

25 Q. What did Dr. Firpo tell you

1 PATRICK LENTO, M.D.

2 about Dr. Varughese's request for a leave
3 of absence?

4 A. From what I recall, he said that
5 Dr. Varughese had made a request. And I
6 believe he was investigating how to go
7 about providing her with a leave of
8 absence.

9 Q. Had Dr. Firpo ever advised you
10 about any observations he made about
11 Dr. Varughese in terms of her health that
12 ultimately led him to say that
13 Dr. Varughese should not be permitted to
14 come back to Mount Sinai until she had
15 medical clearance?

16 A. He may have. But I don't
17 recall.

18 Q. Let me show you what was marked
19 as Defendant's Exhibit 48. I'll give you
20 a moment to review that.

(Witness reviews document.)

22 Q. Had you ever seen that
23 particular email marked as Defendant's
24 Exhibit 48?

25 A. No, I don't recall seeing this.

1 PATRICK LENTO, M.D.

2 Q. Did you have any communications
3 with any of the recipients of that email
4 about the fact that Dr. Varughese was not
5 being permitted to return to work absent
6 having a doctor's note?

7 A. No, I don't recall.

8 Q. Did Dr. Firpo ever express to
9 you that when he had met with
10 Dr. Varughese on September 15th that she
11 had exhibited a flattened affect, very
12 slow responses, anything along those
13 lines?

14 A. I don't recall.

15 Q. Did he ever tell you that she
16 gave a chaotic statement and appeared
17 unable to cope?

18 A. I don't recall.

19 Q. Did he ever tell you that she
20 had flickered her eyes and he thought that
21 she might be having a petit mal seizure?

22 A. No, I don't recall.

23 Q. Were you advised at all about
24 the basis for a request for leave of
25 absence by Dr. Varughese?

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1 PATRICK LENTO, M.D.

2 A. No. She never said anything to
3 me, no.

4 Q. Did you think that she was
5 faking?

6 MR. McEVOY: Objection to the
7 form. Faking what?

8 Q. Did you think that she was
9 faking a medical condition in order to get
10 a leave of absence?

11 A. I had no opinion on the matter.

12 Q. Was there an upcoming conference
13 that was a review conference for board
14 examinations called the Osler Conference?

15 A. There may have been.

16 Q. What is the Osler Conference?

17 A. It's the Osler Review Course for
18 residents who want to prepare for their
19 licensing examination in pathology.

20 Q. Did you think that Dr. Varughese
21 was attempting to use a leave of absence
22 to be able to avoid doing her work but
23 then to also get to attend that conference
24 free of charge?

25 A. I don't know.

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1 PATRICK LENTO, M.D.

2 MR. WRONKO: Let's mark this.

3 (Plaintiff's Lento Exhibit 12
4 marked for identification.)

5 Q. Do you recall this email?

6 A. I do not.

7 Q. Do you know why it is that you
8 had written this email?

9 A. Obviously, it's in response to
10 Dr. Firpo.

11 Q. I should say, so that the record
12 is clear, we are talking about the email
13 that is marked as Lento Exhibit 12, which
14 is a September 19, 2011, email sent by you
15 to Dr. Firpo.

16 Does this refresh your
17 recollection of being skeptical about the
18 reason why Dr. Varughese was requesting a
19 leave?

20 A. I guess that's what I believed
21 at the time, yes.

22 Q. Did you believe that Dr. Varughese
23 was malingering?

24 A. I don't know what she was doing.

25 Q. Given the fact that Dr. Firpo

1 PATRICK LENTO, M.D.

2 had testified at the hearing about his
3 perceptions of Dr. Varughese, did he
4 immediately contact you and shoot down
5 this idea that she was faking it?

6 A. Well, it doesn't say that here.
7 And I don't recall that.

8 Q. Okay. Do you know what
9 Dr. Firpo was referring to when he wrote
10 "This is truly incomprehensible"?

11 A. There is no attachment. So I
12 don't know.

13 Q. Much of it has been redacted for
14 privilege. Do you have any recollection
15 of what was redacted?

16 A. I don't know.

17 Q. Do you know whether anyone
18 shared in your opinion that Dr. Varughese
19 was playing the institution by using her
20 leave in order to attend the review course
21 and so that she wouldn't have to perform
22 her duties?

23 A. What was the question?

24 Q. Do you know whether anyone else
25 shared in your belief that she was playing

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1 PATRICK LENTO, M.D.

2 Mount Sinai by using her leave in order to
3 attend the review course and not have to
4 perform her duties?

5 A. I do not know.

6 Q. Do you know whether or not
7 Dr. Jordan had ever gone through
8 Dr. Varughese's desk?

9 A. I don't know.

10 MR. WRONKO: Let me show you
11 Pessin Exhibit 16.

12 (Witness reviews document.)

13 A. I don't know what this refers
14 to.

15 Q. Were you ever made aware of the
16 fact that Dr. Jordan on or around
17 August 13, 2010, had gone either on or
18 into Dr. Varughese's desk to assess what
19 she had in or on her desk?

20 A. I don't recall.

21 Q. Do you know whether it was
22 appropriate for a PGY-2 to be going
23 through a PGY-3's desk?

24 A. I can't respond to that. I
25 don't know the circumstances of what was

1 PATRICK LENTO, M.D.

2 going on here.

3 Q. Let me show you what was marked
4 as Defendant's Exhibit 52. I'll give you
5 a moment to review that.

6 (Witness reviews document.)

7 Q. I'm going to see whether or not
8 we can try to short-circuit this a little
9 bit, because it is a long document. I
10 want to familiarize you with the document.
11 Let me see whether or not it will be
12 necessary for you to read the entire
13 document.

14 First of all, were you involved
15 in the decision to terminate Dr. Varughese?

16 A. No.

17 Q. Did you have any involvement --
18 strike that.

19 Do you recognize Defendant's
20 Exhibit 52 as the September 21, 2011,
21 notice of summary suspension termination
22 of Dr. Varughese from the pathology
23 residency program?

24 A. By looking at it, yes. I don't
25 recall seeing this.

1 PATRICK LENTO, M.D.

2 Q. Did you have or play any role in
3 terms of drafting this document?

4 A. I don't believe so.

5 Q. Were you being kept apprised of
6 developments with regard to Dr. Varughese
7 at that time in September?

8 A. I don't recall being advised.

9 Q. Did you know she was about to be
10 terminated on or around September 21,
11 2011?

12 A. No.

13 Q. Did you get word that she was
14 terminated after it occurred?

15 A. I believe I did, yes.

16 Q. What was your reaction to that?

17 A. Sad.

18 Q. Why do you say that?

19 A. Well, this has been a long
20 process. I think that it's sad on a
21 number of levels. For one, you put in as
22 a department a lot of time and effort to
23 train a resident, a resident who had been
24 with us for three years. And sad for the
25 resident who obviously lost her job.

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1 PATRICK LENTO, M.D.

2 Q. Wouldn't you agree with me it's
3 more than losing a job when there is this
4 type of termination. In essence, it's a
5 termination of a career?

6 A. That's not for me to determine.

7 Q. Okay.

8 MR. WRONKO: Let's mark this.

9 (Plaintiff's Lento Exhibit 13
10 marked for identification.)

11 Q. Do you recall this email
12 exchange between yourself and Dr. Firpo?

13 A. I do not.

14 Q. You write "Initially, I never
15 got a follow-up page to deal with Leena,
16 so I wanted to see where we were with
17 her."

18 If you no longer had
19 responsibilities with regard to
20 Dr. Varughese, why were you concerned
21 about "where we were with her"?

22 A. Doesn't mean I wasn't interested
23 in the resident.

24 Q. So you were just curious?

25 A. Yes.

1 PATRICK LENTO, M.D.

2 Q. Dr. Firpo writes back "Done"
3 exclamation point. You write back "Good
4 news" exclamation point.

5 Were you happy about this?

6 A. Good news for the department to
7 be able to focus moving forward.

8 Q. So in part, you were happy about
9 this situation, that she had been
10 terminated? Is that fair to say?

11 A. For the residency training
12 program, yes, I think that it would have
13 had a positive impact on the residents
14 overall.

15 Q. Is there a reason you didn't say
16 to Dr. Firpo at this point in time when
17 you are reflecting on the termination of a
18 resident "You know, it's a shame we
19 couldn't have made it work out"?

20 A. That presumes there were no
21 other emails and that I didn't have a
22 personal conversation with him about that.

23 Q. Was there some type of a
24 personal conversation or other emails to
25 that effect?

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1 PATRICK LENTO, M.D.

2 A. I couldn't tell you.

3 Q. At that point in time when
4 Dr. Varughese was terminated, were you
5 still, under ACGME rules, the head of the
6 residency program?

7 A. I was the named program director.

8 Q. But only in name, right?

9 A. I was the named program director.

10 Q. But, in fact, was Dr. Firpo
11 really acting behind the scenes in that
12 capacity?

13 MR. McEVOY: Objection to the
14 form. You can answer.

15 A. Yes. Again, I had already
16 accepted a position at another hospital.
17 The announcement had already been made.
18 And I stayed on primarily to allow for a
19 transition of sorts, rather than up and
20 leaving. I felt it was my responsibility
21 to allow for a transition.

22 Q. When is it that attendings are
23 supposed to complete their evaluations of
24 a particular rotation?

25 A. When?

1 PATRICK LENTO, M.D.

2 Q. How long after the rotation is
3 completed are they expected to hand in
4 their evaluation?

5 A. Well, I think the hope would be
6 within a couple of weeks of the rotation.

7 Q. Are you aware of an evaluation
8 of Dr. Varughese by an Anatoly Laytin for
9 a rotation on March 9, 2009, to May 3,
10 2009, that wasn't submitted until
11 December 1, 2011?

12 A. No, I'm not aware.

13 Q. Let me show you what was
14 previously marked as Defendant's Exhibit
15 57. I'll give you a moment to review
16 that.

17 (Witness reviews document.)

18 Q. Have you ever seen Defendant's
19 Exhibit 57 before?

A. I don't recall having seen this.

21 Q. Have you seen this type of a
22 form before?

A. No, I don't recall.

24 Q. Had you ever prepared summative
25 evaluations on behalf of anyone?

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1 PATRICK LENTO, M.D.

2 A. At the end of the residency?

3 Q. Yes.

4 A. Probably, yes.

5 Q. What form did it take when you
6 were preparing it?

7 A. I don't know if I used a form.
8 I'll be honest with you.

9 Q. So what would you instead do?

10 A. I don't recall exactly.

11 Q. Do you know whether or not you
12 had prepared any summative evaluations for
13 the PGY-4 class that Dr. Varughese was a
14 part of?

15 A. No. I left the program in
16 December 2011. The summative evaluations
17 would have occurred at the end of that
18 academic year, which would have been
19 somewhere between let's say March and May
20 of 2012.

21 Q. Did you write a summative
22 evaluation for Jessica French?

23 A. I don't remember when she
24 graduated.

25 Q. She graduated 2011.

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1 PATRICK LENTO, M.D.

2 A. June 2011?

3 Q. Mm-hmm.

4 A. So probably, yes.

5 Q. Do you recall what type of
6 evaluation you gave for Jessica French?

7 A. No, sir.

8 MR. WRONKO: Let's mark this.

9 (Plaintiff's Lento Exhibit 14
10 marked for identification.)

11 MR. WRONKO: I don't have an
12 extra copy. Show it to Mr. McEvoy. We
13 can make a copy in a moment.

14 Q. Have you ever seen what has been
15 marked as Lento Exhibit 14 before?

16 A. No.

17 Q. Does that simply -- does that
18 email confirm the fact that when you were
19 the residency program director, you had
20 prepared summative evaluations?

21 A. Yes.

22 Q. And to your best recollection
23 sitting here today, you did not use a
24 prepared form? Would you do it in a
25 narrative format, like a letter of

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LEENA VARUGHESE,

12 Civ. 8812 (CM) (JCF)

Plaintiff,

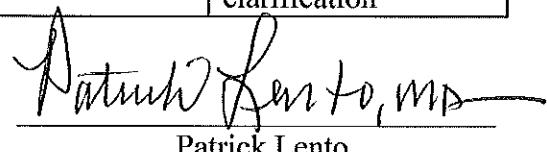
-against-

MOUNT SINAI MEDICAL CENTER, PATRICK LENTO, M.D., CARLOS CORDON-CARDO, M.D., ADOLFO FIRPO, M.D., IRA J. BLEIWEISS, M.D., and ABC Corp. 1-10, and JOHN DOES 1-10,

Defendants.

**ERRATA SHEET FOR
THE DEPOSITION OF
DR. PATRICK LENTO**

<u>Page</u>	<u>Line</u>	<u>Change From</u>	<u>Change To</u>	<u>Reason</u>
30	11	At the current moment.	At the current moment, No.	Typographical error
39	2	Not that I was aware of.	Not that I recall.	Clarification
91	2	said to Dr. Maniar.	said so to Dr. Varughese	Typographical error
111	20	attending surgeon.	attending breast surgeon.	Typographical error
186	17	Mm-hmm.	Yes.	Clarification
209	18-19	So like you did not too long ago, asked her	So, just like you asked me not too long ago, I asked her.	Typographical error
300	2	I couldn't tell you.	I don't recall.	Typographical error; clarification



Patrick Lento

Sworn to before me this
25th day of November, 2013



Patricia J. Travis
Notary Public

PATRICIA J. TRAVIS
Notary Public, State of New York
No. 4895803
Qualified in Putnam County
Term Expires August 3, 2017